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Tuesday, 7 November 2000

The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 2.00 p.m., and read prayers.

QUESTIONS WITHOUT NOTICE

Residential Aged Care: Waiting Periods

Senator GIBBS (2.01 p.m.)—My question is to Senator Herron, the Minister representing the Minister for Aged Care. Is the minister aware that one of the government’s performance measures for its aged care reforms is that there is to be a reduction in the waiting period for individuals entering residential aged care when compared with the waiting period for the previous year? Can the minister confirm that for the third year in a row the government has failed to meet this measure? Isn’t it true that in 1997-98 the average waiting period for nursing homes was 31 days, that in 1998-99 this had grown to 47 days, and that it is now 55 days?

Senator HERRON—I thank Senator Gibbs for the question. Once again the question should be predicated on what the position was when we came into government over four years ago because there was a 10,000-bed shortage when we came into government.

Senator Robert Ray—You’re at bat now.

Senator HERRON—Yes, I thank Senator Ray for that interjection. That is true. We have made enormous advances in that time. Once again we are comparing apples with oranges, with respect, or Senator Gibbs is, because she is equating waiting times and places that are available while trying to make a point on a statistical basis which has no relevance to the facts. In that period of time, as Senator Ray quite rightly points out, we have brought in two major measures in relation to aged care in this country. We have brought in accreditation. For the first time ever in history, all nursing homes and hostels have been put through an accreditation process whereby buildings have been brought up to standard. In addition to that we have brought in certification. So the reality is that there is reformation occurring in this industry for the first time, Senator Gibbs may be interested to know; it has not occurred in the past.

With a rapidly ageing population—I want to say to the point of boredom, probably, to the other side—there is increasing demand on aged care facilities in this country. Of course, waiting times will vary from time to time, often in the interests of the people who wish to be admitted to these institutions. First of all, they have to be assessed in terms of the urgency of their admission, and then the facilities that are available to them have to be assessed, so there will always be a disparity between one form of statistic and another. It is all very well to pluck a figure out of the air and say that these are the times that are occurring at the moment relative to a period in the past, but we are spending a record sum of money in relation to the problem, there is considerable progress being made, and those statistics are freely available. For example, 81 per cent of facilities have now achieved accreditation, and the accreditation assessment process has been completed for more than 97.1 per cent of facilities. The Aged Care Standards and Accreditation Agency has advised us that it will complete the accreditation of all aged care facilities by the legislative date of 1 January 2001. That accreditation process will be complete by 1 January next year. Inevitably it has been an arduous process, but it is in the interests of the people who are accessing it.

The other point I make is that only one person in 10 over the age of 70 in this country needs any access at all to any of these facilities. Nine out of 10 people are living at home, either on their own or with family, and do not require access to an institution of this kind. We are improving the facilities for people to be looked after in their own homes so that they get adequate nursing care. So to pluck a figure out of the air and to imply by that that the government is neglecting its duty in this regard—and we do regard it as a duty to the aged people of this country—because there has been a variation in waiting periods is untrue. We do take it very seriously. (Time expired)

Senator GIBBS—Madam President, I ask a supplementary question. These figures are hardly plucked out of the air, Minister. Could
the minister inform the Senate whether Minister Bishop’s continual failure to meet this measure is the reason why she is now flagging that it will be reviewed?

Senator HERRON—The first point I refute completely. Minister Bishop is not failing in any respect. She has done an outstanding job—far superior to anything that was done in the 13 years of failed Labor government. They had 13 years to do something about this. Because she is reforming the industry she gets criticism from the other side. A lot of features are being brought in. We are addressing the issue. Of course, we are continually reviewing it. It would be remiss of us not to review progress. We would be stuck in the past as the Labor Party are. What is the Labor Party policy? That is a rhetorical question. They have none.

Rural Transaction Centres

Senator CAL VERT (2.07 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. Will the minister advise of recent progress in the coalition’s successful rural transaction centres initiative? Can he also advise of other steps being taken to improve cooperation between federal, state and local government in delivering services in regional and remote Australian communities?

Senator IAN MACDONALD—I thank Senator Calvert not only for the question but also for the way he enters into the debate about rural and regional issues. For rural and regional Australians, you need debate and you need people to get involved in the issues as Senator Calvert does. Regrettably, the Labor Party do not. The Labor Party try to score populist points in country Australia, for example on their fuel policy. Mr Beazley tries to pretend that he would have a freeze on excise, which is directly contrary to what his deputy, Mr Crean, said in Rockhampton a couple of months ago, when he said that there will not be any changes in the fuel tax regime policy. So there is a direct conflict. Of course, Senator Cook criticised us when we reduced the price of fuel by about 25c a litre to country Australians. There is all this dishonesty in the Labor Party’s approach to rural Australia. Their approach to rural Australia is almost as honest as their approach to the Queensland electoral roll, and we know what the Labor Party’s approach is like there.

Senator Calvert asked me about the rural transaction centres. It is a timely question because, since the last sittings, another three centres have been opened in rural and rural Australia. Centres have been opened in Bell, just north of Dalby, in Queensland, and, last Friday, in Kalbar, near Boonah in the Brisbane Valley. Both communities have been doing it tough in difficult times. In fact, they have had drought there for some time. I visited both and it rained both nights in both Bell and Kalbar, but I do not claim credit for that. I do claim credit, on behalf of the government, for opening services in these rural and regional communities.

Honourable senators interjecting—

The PRESIDENT—Order! There is far too much noise in the chamber.

Senator IAN MACDONALD—The government, through its Rural Transaction Centre Program, has brought services back to those communities where the services left in Labor times. My Western Australian colleagues will be pleased to know that, in Kojonup in Western Australia, a new rural transaction centre was opened by my colleague Mr Wilson Tuckey, a great minister and a great man.

Senator Forshaw—Did he chop it down, burn it down?

Senator IAN MACDONALD—I hear Senator Forshaw yelling about Four Corners last night. The Four Corners program you should look at, Senator Forshaw, is the one of the week before, which exposed the electoral rorts of the Labor Party in Queensland. That is the Four Corners you should be looking at.

The services that are in Kalbar involve the state government. The QGAP, the Queensland government’s program that delivers government services from the state’s perspective, is part of that rural transaction centre. In Kojonup in Western Australia, there is a telecentre that is part of the telecentre network that was established by the Western Australian state government. So we are bringing those services in rural and regional
Australia together. In Bell, near Dalby, there is a classic RTC. It opened up in the small community store in Bell. It has a Heritage Building Society branch, which now provides full service, face-to-face banking—at a much cheaper rate than the major banks, and I know country people will be interested in that and will support the Heritage Building Society and other building societies. It also has a Medicare Easyclaim centre, it has an Internet cafe with fax and copying facilities and it joins in the local authorities’ services.

The day after tomorrow, the rural transaction centre panel will be meeting in Canberra to assess another 28 applications for project funding.

Aged Care: Funding

Senator BUCKLAND (2.12 p.m.)—My question is directed to Senator Herron, the Minister representing the Minister for Aged Care. Is the minister aware that the National Party member for Riverina recently bucked government discipline and vowed to lobby the government to rectify the funding crisis in aged care which is threatening care standards? Doesn’t Mrs Hull now join a growing list of organisations, including the Productivity Commission, that have called for changes to Minister Bishop’s funding arrangements? Will the minister listen to her own backbench on this issue?

Honourable senators interjecting—

The PRESIDENT—Order! I call Senator Herron.

Senator HERRON—Order, Senator Patterson!

Honourable senators interjecting—

Senator HERRON—on listening to the backbench, unlike the factional systems that exist in the Labor Party, where members cannot even have a voice if they do not belong to the right faction. This is a party and a coalition of freedom of choice.

Honourable senators interjecting—

Senator PATTERTON—Madam President, I rise on a point of order. I interjected—I know it is disorderly—for the first time in about six weeks. Senator Ray is now shouting across the chamber. You called my name. He deserves to be called, as well as all the other people on the other side who have been interjecting all question time.

The PRESIDENT—I think Senator Ray knows that. We are waiting for the Senate to come to order to proceed with question time.

Senator HERRON—The first point that I would make is that the government is committed to ensuring that older people can access residential care when they need it. That is not in doubt. In fact, a significant number of high care residents, 15 per cent, are placed within two days of Aged Care Assessment Team approval. Residents can even be placed before the ACAT assessment in emergencies. Many residents who do not need an emergency admission prefer to take the time after their assessment to look at their options and, in many cases, people have not yet formed the decision to enter residential care at the time of the ACAT assessment. After their assessment, older people and their families visit different facilities, make a decision and arrange their affairs before they move.

It is incumbent upon a sitting member, as Senator Buckland said, to make representations on behalf of their constituents, and yet he implies by his question that there is something wrong with that. We do not have any difficulty with that at all, Senator Buckland. That is what a good sitting member does, and that is what the member for Riverina is—a great sitting member. For her, we do not have a rigidity within our process. We do not have the rigidity that Labor have. I remember big Bill Ludwig in Queensland said:

My position is that the party was developed as the political wing of the trade union movement and it still is as far as I am concerned. It owes its existence to the union movement.

He said that Labor governments need to be reminded of that occasionally. Senator Gibbs puts her hand up. Senator Gibbs is from Queensland, where we know all the electoral rorting is going on at the moment, but Sena-
tor Gibbs would keep quiet. I suspect prese-

Senator Chris Evans—Madam President, I rise on a point of order. Senator Herron was asked about aged care funding. I do not think he has yet mentioned aged care funding or anything related to it once in his answer. Could you bring him to order on the question of relevance?

The PRESIDENT—Order! Senator Herron, I do draw your attention to the question.

Senator HERRON—I am happy to reply to that spurious point of order. We have put increased funding into aged care far and above the requirements in the Productivity Commission report. There are now actually 108 places per 1,000 which were not there before. We have increased the funding quite dramatically.

Senator Chris Evans—Untrue!

Senator HERRON—Senator Evans calls out, 'Untrue!' I am happy to produce the figures for him if he so desires. We have increased the amount of funding that has gone in. We have increased the number of places. In fact, there is good news in relation to aged care. The government’s Staying at Home package has boosted growth in the provision of community aged care places. By the end of this financial year, some 24,000 care packages will be in operation—an increase of over 443 per cent since 1996.

Senator Newman—How about that!

Senator HERRON—as Senator Newman says, how about that! It is a 443 per cent increase since 1996. Senator Evans is quiet now. Don’t let the facts confuse the rhetoric from the other side. And there is more. We have significantly increased the amount of money that we are spending on respite care so that carers can have a break. Funding for respite care has increased by over 200 per cent since 1996-97 to some $62 million this year. I think my case rests.

Senator BUCKLAND—Madam President, I ask a supplementary question. Can the minister confirm that many of his Queensland colleagues in the government share Mrs Hull’s concern with Mrs Bishop’s handling of the aged care portfolio?

Senator HERRON—Quite the reverse, Madam President. We are very happy with Mrs Bishop. It is quite the reverse. But there is a very genuine concern about the demand that is being put on aged care places. Because of that, residential and community care subsidies and supplements were increased on 1 July this year, providing an extra $112 million for aged care facilities. Yes, we do share their concern, but their concern is about their constituents rather than about the trade union movement.

Business Activity Statements: Information

Senator BRANDIS (2.19 p.m.)—My question without notice is directed to the Assistant Treasurer, Senator Kemp. Will the minister inform the Senate of the information and support which is available to businesses to assist them in lodging quarterly business activity statements by this Saturday, 11 November?

Senator KEMP—Thank you, Senator Brandis, for that very important question. Senator Brandis is one of those senators who take a very great interest in tax reform. He has been out there helping to explain the various issues to people, and I congratulate Senator Brandis for his work. Senators will be aware that the first quarterly BAS is due shortly, on 11 November. This is a three-week extension which has been granted by the Commissioner of Taxation. In addition to that extension, the Australian Taxation Office has advised that no general interest charge or late lodgment penalty will apply to clients of agents who lodge by 30 November as long as the agents lodge in the vicinity of 50 per cent of their activity statements by 11 November. The preparations for the lodgment of the first quarterly BAS have gone extremely well. As at two weeks before 11 November, over a quarter of a million BASs have been lodged. For those who need assistance—and this goes to the nub of Senator Brandis’s question—both the ATO and the GST Start-Up Assistance Office are providing it. Over 4,000 workshops as well as field advisory visits and signpost officers are being made available to assist people in completing the BAS.

Opposition senators interjecting—
The PRESIDENT—Order! Senators on my left will cease interjecting.

Senator KEMP—I am sorry the Labor Party is not the slightest bit interested in this important question, but I think others are. The BAS help week is running from 1 to 8 November in over 250 locations around Australia. The ATO is offering free practical advice and assistance to people in smaller businesses who have tried to fill in their first BAS but still have some questions. Any business experiencing difficulty with the BAS can call the ATO hotline on 13 2478. As senators can see, the government wants small and medium businesses to be able to comply with the new tax system with certainty and ease. By contrast, it would appear that the Labor Party on this issue, as on all others, is completely all over the place.

Those familiar with the Labor Party’s tax policy at the last election will know that Labor supported the new BAS system, which has now been introduced. But there has been some change in Labor Party policy. The document entitled ‘A fairer tax system with no GST’ has now been rolled back.

Opposition senators interjecting—

Senator KEMP—I mentioned the word ‘roll-back’. I know that that word has been banned in this chamber by the Labor Party but I did mention it and there has been a roll-back from the Labor Party position that there would be no GST. As we all know, the Labor Party adopted the GST as of 1 July.

Senator Cook—We did not.

Senator KEMP—Real? It is true that Senator Cook is normally poorly informed on most things, but I did think he would be informed on Labor Party policy. I have made this claim on many occasions in this chamber and Senator Cook has never got to his feet to correct the record. The Labor Party has supported the GST as of 1 July, and its support of the BAS arrangements dates back to the last election. The Labor campaign against the BAS, like all Labor’s other campaigns, is extremely hypocritical and not worthy of a party that wants to make an important contribution to public debate.

Nursing Homes: Kenilworth

Senator CHRIS EVANS (2.23 p.m.)—My question is directed to Senator Herron in his capacity representing the Minister for Aged Care. Is the minister aware that a review audit of the Kenilworth Nursing Home in Victoria recently found that residents were at serious risk and identified breaches of care standards in many areas, including nursing care, clinical care, medication management and pain management? Can the minister confirm that an earlier report on the same facility dated 12 June 1999 identified serious risks to residents in a range of areas? Is it also true that a subsequent report dated 2 March this year found that those serious risks remained? Can the minister explain how under the government’s system this nursing home has continually breached care standards for more than a year? Why are residents in that facility still at serious risk more than 12 months after the government first discovered those risks and why has action not been taken?

Senator Patterson—Thirteen years, they had.

Senator HERRON—As Senator Patterson said, the Labor Party had 13 years to do something about complaints of this nature and did nothing. We instituted a program—of which we are quite proud—to make sure that the matters alleged by Senator Evans are being investigated. The Kenilworth Nursing Home is a facility of concern to both the department and the Aged Care Standards and Accreditation Agency. Five separate sets of sanctions have been applied to Kenilworth. These include inappropriate restraint of residents, refusal to allow agency assessors proper access to the premises and inadequate fire safety systems. The approved provider of the home has not submitted a complete application for accreditation, despite assurances to the department that it would do so. If it does not apply for and receive accreditation, Commonwealth funding of the home will cease on 1 January 2001.

Senator Patterson—You did nothing.

Senator HERRON—As Senator Patterson said, this would not have happened if the Labor Party had been in power, because they
did nothing to produce anything of this nature.

The department has met with the proprietor—that would not have occurred under Labor, as Senator Faulkner well knows—to discuss serious concerns recently identified by the agency and has sought evidence that quick action will be taken to address residents' care needs. The proprietor has applied to the Administrative Appeals Tribunal to have certain decisions by the department stayed, including sanctions in respect of Kenilworth. A senior member of the tribunal has stated, amongst other things, that he is not satisfied that the proprietor has a case that has any prospect of success. The department and the agency are regularly monitoring the facility.

Action that was taken when we came into government is action that was not available under the previous government. Senator Evans now tries to beat up this issue and to imply that there is some dereliction of duty by the government. That is not true. We are as interested as Senator Evans in ensuring that high standards are applied and that accreditation and audits occur continuously. As I mentioned previously, there have been five separate sets of sanctions in relation to this particular facility.

Senator CHRIS EVANS—Madam President, I ask a supplementary question. I concede to the minister that there have been five sets of sanctions against this particular nursing home. That is my point: they have not applied for the government's new accreditation system so they do not come under that system. I want to know—as do the relatives and others involved—why, after more than a year of sanctions and involvement with this nursing home, when you have concluded on every occasion that proper care has not been delivered, you have not done anything to ensure the care of those residents who are still living at that facility under the care of a person who you think is an unsuitable provider? Why have you not done anything to protect those people who are still living in that home?

Senator HERRON—The department is doing something, although Senator Evans implies that they are not. Of course the ultimate sanction will be to withdraw the funding.

Senator Chris Evans—People are still in the home; you haven't got the guts to close it.

The PRESIDENT—Order! Labor senators will cease shouting. Senator Evans!

Senator HERRON—We do not condone throwing people out on the street. We do not have a policy of throwing people out on the street with nowhere to go, which is the implication of what—

Senator Chris Evans—There are 12 people living in the worst conditions you have ever seen.

The PRESIDENT—Order! Senator Evans, if you wish to debate this matter you will have an opportunity to do so later in the day.

Senator HERRON—We do not have a policy of throwing aged care residents out on the street, which is the implication—

Senator Chris Evans—What are you doing?

Senator HERRON—We are monitoring standards and we are sending teams.

Senator Chris Evans—Monitoring them? You say it is dreadful but do nothing.

Senator HERRON—We have had five separate sets of sanctions. There is the threat of withdrawal of funding from the Kenilworth home by the end of next year unless the standards are met. If the standards are met, they should satisfy Senator Evans.

Southern Bluefin Tuna: Quota

Senator GREIG (2.29 p.m.)—My question is addressed to Senator Hill, representing the Minister for Agriculture, Fisheries and Forestry. Is the minister aware that the International Union for the Conservation of Nature has declared southern bluefin tuna a critically endangered species and that it has been recommended by the Victorian Scientific Advisory Committee for listing in the Flora and Fauna Guarantee Act? Is the minister further aware that the current quota for this fish stock, as set by the Commission for the Conservation of Southern Bluefin Tuna and agreed by the three parties concerned, is some 11,750 tonnes per year, with the lion's
share of more than 6,065 tonnes being taken by Japan? In light of this, I ask the minister: is it true that the government is now seriously considering allowing Japan to increase this quota by an additional 2,000 tonnes per year to undertake experimental fishing rather than insisting it undertake its research from within its current quota?

Senator HILL—I am aware of a CSIRO assessment that concludes that southern bluefin tuna is endangered. Those assessments, of course, depend on the range and the stock numbers. They do not mean that there are few fish remaining. They have to be put in the context of what was the original stock. On the criteria that CSIRO use, that is the conclusion that they have reached.

The honourable senator will be aware of efforts that the Australian government has been making to conserve the fish, particularly through the commission process, and of the difficulties that we have been having with Japan—which, as he says, is the major fishing nation. In particular, Japan has been seeking an experimental take beyond its tack and, in fact, unilaterally has so acted. The honourable senator will also be aware that the Australian government took legal action in an effort to stop Japan from that course of action. Ultimately, that action was not successful.

What the Australian government is seeking is a resolution of the matter that will best enable the species to return to its earlier sustainable numbers, and that includes a new tack at a sustainable level. The new tack includes, as I understand it, some experimental take. But also, as I understand it, included within the new tack will be efforts to include, within the commission arrangements, the major fishing nations that are not currently members—and that is Taiwan, Korea, and I think the third is China—and basically, therefore, a commitment by all of the principal fishing nations to operate within a sustainable level. We believe that such a result will not only best enable the return of sustainable numbers of the species but also enable the fishing industry for that particular species to exist in an economically sustainable way.

Australia, as the honourable senator also knows, has withdrawn port access for Japan whilst this dispute has been ongoing. That access still has not been given, and will not be given, until matters with Japan are resolved. I think, on the basis of that assessment, any objective observer would say that the Australian government has played a very positive role in seeking to improve the stocks of this particular species and to ensure that the fishing industry—which is difficult to manage because it is an international fishing industry—nevertheless operates within sustainable limits.

Senator GREIG—Madam President, I ask a supplementary question. I thank the minister for his answer, but I ask: Minister, if Japan repeats what it did in 1998—and that is illegally extend its quota by some 25 per cent, under the ploy of experimental fishing programs—what steps will the government take to send Japan the very clear message that Australia will not allow it to ignore set quotas and risk decimating southern bluefin tuna stocks? That is, what positive role can Australia take for the future?

Senator HILL—The positive role Australia can take is to encourage the major fishing nations to cooperate towards sustainable limits. I understand that one of the positive developments is that Japan is now talking not of a unilateral scientific take but of a level that is determined by the parties and on the basis of independent scientific assessment. If that comes to pass, that will be a very positive step in itself. But beyond that, a breach by a party—which may not be any more serious than a fishing nation that is not prepared to be a party—is very difficult for Australia to effectively answer. As I have said, we have gone as far as to take legal action. In the end, that did not prove successful in itself. But perhaps the commitment that Australia has shown contributed to the parties being now seemingly willing to act in a more cooperative way.

Nursing Homes: Bed Shortage

Senator MACKAY (2.35 p.m.)—My question is addressed to Senator Herron, representing the Minister for Aged Care. Is the minister aware that the ratio of nursing home beds to the population aged 70 and over in
the following regions dropped further below the government’s own target over the last 12 months? The regions include the Central Coast and Far North Coast of New South Wales; Loddon Mallee in Victoria; Logan River Valley in Queensland; and South Perth. Isn’t it a fact that, according to the government’s own targets, the shortages of nursing home beds in these regions have increased in the last year? Can you confirm, Minister, that none of these regions received any additional nursing home beds in the current allocation round? Minister, doesn’t this mean that, with the ageing of the population, the current shortages in these regions can only grow?

Senator HERRON—As I have mentioned previously, there is an overall figure for the whole of the country, but obviously it will vary from region to region. It is a target that we have set. It is a much higher target than was put forward by the Labor Party when it was in power—a much higher target. As I mentioned previously, we are expending a considerable amount of money increasing the funds that are available. For example, in 2000-01 the Commonwealth government contributed $565 million to the Home and Community Care program—an increase of 33.5 per cent since 1995-96. So there will be variation; Senator Mackay is quite correct. There is a variation in demand because the populations vary—and she may not be aware of it. But the aged care structure and the demographics of this country are that there is considerable variation. For example, in Darwin there is a much younger population than there is in Hobart. That is inevitable. Because of the demographics, there will be different demand in different parts of the country.

Yes, it is true that we have set an overall figure which we wish to attain and, in doing so, we have increased the amount of funding; and it has been a considerable increase, as I said in answer to a previous question. We will continually review the demand because, inevitably, demand will outstrip supply in certain areas, but that is what we are here for. We are here to provide the best quality care that is available with the funding that is available within the constraints of the budget, and we will address that. So if Senator Mackay has a submission in this regard into those particular regions, I will be happy to take it to the minister and seek her response.

Senator MACKAY—Madam President, I ask a supplementary question. Minister, don’t the figures supplied by the minister’s own Department of Health and Aged Care in its annual report clearly show that, under this government, nursing home bed shortages in many regions are growing—a matter of great concern for regional Australians? Why isn’t the government allocating additional nursing home beds to these regions to address these shortages?

Senator HERRON—As I said before, it is a matter of supply and demand and the amount of money that is available within the budget. We have a responsible budget. Madam President, we inherited, as you know, a $10½ billion deficit because the Labor Party were great at dispensing funds about the place and ran us into a record deficit, which Senator Cook denied, I understand from the Assistant Treasurer. We inherited a budget deficit of $10½ billion. We are responsible economic managers of this country. We are responding to the demands. We are reviewing the provisions of aged care beds and will continue to do so.

World Conservation Congress: Oceanic Councillor

Senator BROWN (2.38 p.m.)—My question is to the Minister for the Environment and Heritage. Is it true that at the World Conservation Congress in Jordan three weeks ago his endorsed candidate, Mr Tanzer, came last out of five candidates for the oceanic councillor position, while the candidate that he actively opposed, Christine Milne, topped the poll? Could he please explain why it was that, when it came to government votes at this international forum, Mrs Milne topped the poll with 245 votes while his candidate came last with 145? Is this not a clear international rebuke to the Australian government, and in particular his ministry, on its bad environmental performance? Is it not a warning sign that the government had better go to the conference in The Hague next week with true environmental goals in its saddle-bag?
Senator HILL—I was never much good at counting; that is the problem. What I can confidently tell the Senate is that Mr John Tanzer would have been an excellent representative for Australia. I do not have the same confidence in Christine Milne, I have to confess. She may be one of the last few remnants of Senator Brown’s party but, based on her contributions at previous international conferences that I have attended, I am not expecting much constructive to come from her. Then again, that is the way Senator Brown operates, and she operates in the same style. Neither really reflects the mainstream of the environmental movement, a movement which is now much more concerned about repairing damage that has been done in the past and putting in place practices that will do better for the future. Sadly, in the past, Christine Milne has not been of that mould. We will see how she operates now she is a representative of this country at IUCN. I have to say that IUCN has been somewhat disappointing in recent years as well, in particular—

Senator Bolkus—No-one agrees with you.

Senator HILL—I do not think that is right, actually, Senator Bolkus. As I was saying, IUCN has been disappointing, particularly in relation to its attitude to world heritage matters, and perhaps this is an opportunity for IUCN to lift its game as well.

In relation to the climate change debate in The Hague, yes, Australia will be going to that negotiation positively and constructively. Australia is looking for an outcome that settles some of the undecided detail from Kyoto—detail relating to the flexibility mechanisms, to the definition of sinks and to compliance. Australia is also looking for progress on the issue of a commitment of developing nations, because developing nations are about to overtake developed nations in their contribution of greenhouse gas emissions. Our purpose in seeking a resolution of these issues is that we think it is important that the protocol come into legal effect as soon as possible. It is now three years since Kyoto and it is important that these matters of detail be settled in order that developed nations might seriously address the issue of ratification.

Why are we so concerned that progress be made? It is because the issue of climate change is a very serious one. It is going to require a major change of attitude of all states to actually stabilise greenhouse gas emissions, let alone reduce those emissions. It is going to be a long task and it is important that the process starts. In other words, it is important that developed nations meet the commitments that they accepted at Kyoto, which all states at that time accepted as fair commitments, and it is also important that developing nations make their contribution.

I am pleased that Australia has not waited for the Kyoto protocol to come into legal effect but has instead implemented a suite of programs to improve our domestic performance—programs which include a new commercial and domestic building code for Australia, which is being negotiated; new emission standards for existing power stations; new emission standards for motor vehicles and fuel quality standards to match those; a $400 million Greenhouse Gas Abatement Program, which will, in effect, buy back carbon; some $350 million of investment in renewable energy; and many other programs. I think that would demonstrate to anyone a very constructive contribution.

Senator BROWN—Madam President, I ask a supplementary question. Minister, is it a fact that the world government representatives at the last conference gave this minister and government the thumbs down because of their poor performance on global warming? Is it not a fact that the target of an eight per cent increase in global warming gases set at the Kyoto conference has already been passed and that this country is beyond 118 per cent in 1998? Is the government not concerned that it is being seen around the world as the poorest performed government in the OECD? Can the minister name one other country that has already passed its Kyoto target by more than 100 per cent in 1998 as far as the output of global warming gases is concerned?

Senator HILL—Honourable senators tomorrow will have an opportunity to do
something constructive towards a better Australian outcome. They will have the opportunity to pass this government’s renewable energy bill, which will require a $2 billion investment in the Australian renewable energy industry—the greatest investment in the history of this country. On all indications we have so far, the Australian Democrats are going to vote against it, Senator Brown is going to vote against it, and the Australian Labor Party is going to vote against it. So how can senators on the other side come into this place and lament—

Senator Brown—Madam President, I rise on a point of order. Senator Hill, in giving his answer to the question, indicates he wants this side of the house to vote for burning of Australian forests as part of his bill. Of course we won’t—

The President—Senator Brown, you are debating the issue. Resume your seat. There is no point of order.

Senator Hill—It is the same story every time with Senator Brown. When he has an opportunity in this place to vote for the environment he votes it down. He does it time and time again, and he will do it again tomorrow because he cannot bear the thought of voting for good environmental legislation in case this government gets the credit. (Time expired)

Nursing Homes: Hindmarsh

Senator Bolkus (2.46 p.m.)—My question is to Minister Herron, representing the Minister for Aged Care. Is the minister aware that the Hindmarsh Nursing Home in Adelaide is closing down? Can the minister confirm that under the government system the institution would have received approximately $100,000 a year from residents in accommodation charges and a further $100,000 a year from the Commonwealth through the concessional resident supplement? Wasn’t this money intended for capital works? Given that the facility has not been required to account for even one dollar of this money, what assurances can the minister give the residents and the taxpayers that this money was used appropriately at the Hindmarsh Nursing Home? Can the minister confirm that under the Howard government’s aged care system the provider is entitled to just walk away from the sector and pocket the funds received from both residents and taxpayers?

Senator Herron—As usual, Senator Bolkus is behind the pace. That facility has closed down; he said it is closing down. You would think that a senator from South Australia would know what was going on in his own home state. I inform Senator Bolkus that on 3 November the aged care facility closed. It closed because on 4 August, following a site audit of Hindmarsh Nursing Home, the department received a serious risk report from the Aged Care Standards and Accreditation Agency: something that we instituted and that we are proud of so that these facilities are inspected and sanctions are taken. The agency’s decision was to not accredit the service. Sanctions were imposed on 14 and 23 August this year and, as I said previously, on 3 November the approved provider closed the home.

The provider and the administrator worked closely with families and residents to obtain satisfactory placements in other facilities. That is the point that Senator Evans does not seem to appreciate: we work constructively so that placements can be made for people who require that sort of care. We do that constructively and with the permission and encouragement of the families and the residents themselves. The departmental rapid response team visited the facility daily until the facility closed. In relation to the other questions that Senator Bolkus asked, I do not have a brief. But if any further information can be provided, I would be happy to approach the minister for that.

Senator Bolkus—Madam President, I ask a supplementary question. I have come to appreciate that this minister is a bit slow. The fundamental issue, Minister, is: where has the money gone and where has your system failed in accountability? Minister, isn’t it the case that nursing home providers who plan to leave the sector are effectively encouraged to collect accommodation charges and concessional resident supplements—they can do no capital works—and then simply walk away with the funds? In the case of the Hindmarsh Nursing Home,
couldn’t this money have totalled more than half a million dollars over the last three years? That is the issue, Minister. Where has the money gone?

Senator HERRON—There are sanctions, as I say. The government takes the sanctions seriously. They are imposed. I cannot answer Senator Bolkus’s previous question because I do not have the facts before me, and I am not going to play loose with the facts, as Senator Bolkus invariably plays loose with the facts. I do not know. I am not prepared to accept that what Senator Bolkus said is in fact the truth. As I said, I am happy to investigate that on his behalf but, more importantly, on behalf of the residents of South Australia, who deserve better representation than given by the present senator for the Labor Party.

Interpol: South Pacific Region

Senator EGGLESTON (2.51 p.m.)—My question is to the Minister for Justice and Customs. Crime is increasingly an international issue. Will the minister inform the Senate of the significance of the appointment of Federal Agent Andy Hughes to the executive committee of Interpol? Also, what measures has the government implemented in the South Pacific region to strengthen international law enforcement cooperation and security?

Senator VANSTONE—I thank the senator for his question. Senators on this side take a close interest in law enforcement and, in particular, the excellent job done by the Australian Federal Police. It might have been news to some senators to discover in the context of the question that Federal Agent Andy Hughes was in fact elected to the 13-member Executive Committee at the Interpol General Assembly last week. Andy Hughes is the director of the AFP’s international operations section.

Interpol is of course the world’s premier international law enforcement organisation. It plays a vital role in tracing wanted criminals and provides assistance to national law enforcement agencies across jurisdictions in 178 member countries. The interesting point about this appointment is that Mr Hughes takes over from Commissioner Palmer, who has just completed his three-year term. The point is that back-to-back terms on the executive of Interpol for Australia represents an unprecedented show of support for the role Australia and the Australian Federal Police have played and are playing in the international arena in the fight against transnational crime. The Australian Federal Police have achieved this reputation among their peers and have been recognised by the nations of Interpol in the election of an Australian, as I said, for the second term in a row to the executive committee. It is a reputation well deserved, in the government’s view.

Only last week, as I indicated, the Australian Federal Police led a team of 30 international police and seized some 357 kilos of heroin after a sustained and very difficult and dangerous operation in Fiji in which, I am advised, one of the Canadian policewomen who was there was in fact assaulted late at night. She was quite dangerously put at risk with someone wielding a machete. This is very dangerous work that our people—men and women—of the police force engage in. The drugs were seized before they could enter Australia.

The government’s Tough on Drugs policy has enabled the Federal Police not only to intercept large quantities of drugs arriving in Australia but to take that fight offshore. International cooperation and information we have provided to other agencies has involved the Federal Police in operations that have led to overseas police services—not just what we have done here and what we have done in Fiji—disrupting criminal syndicates in Hong Kong, Malaysia, Singapore, Canada and the United States as well as other areas within the Pacific. It is a very significant contribution being made by the Federal Police and their liaison officer network, now in 18 countries.

The Federal Police are placing themselves between Australia and the rest of the world in protecting us against these criminal groups and enterprises who simply want to exploit human misery and suffering for criminal gains and profit. This can only be achieved through cooperation. Only last week we had a management of serious crime course especially put on for 20 Chinese law enforcement officers to complete. The effectiveness of the
In respect of the Solomon Islands, as was asked of me—and if I do not get time to finish this answer, Senator, you might ask me some more, but I have not finished the answer yet and I do not want to go over time—on Thursday of this week there will be the deployment of 20—

Opposition senators interjecting—

The PRESIDENT—Order!

Senator VANSTONE—I note senators on the other side do not have any interest in law enforcement. They let the Australian Federal Police run down to a shameful level of funding and resourcing, and it has taken this government to bring them back.

(Time expired)

Senator EGGLESTON—Madam President, I would like to ask a supplementary question. Could the minister advise the Senate of other particular successes the federal government has had in policing the drug trade and other forms of international crime in our region?

Senator VANSTONE—On Thursday of this week there will be the deployment of 20 Australian Federal Police personnel to the International Peace Monitoring Team to the Solomon Islands. The first group of 10 will leave from Townsville; they will be followed by a further 10 in a fortnight’s time. They will join 29 other Australian and New Zealand personnel in the implementation of the Townsville peace agreement. The police officers will be deployed to Guadalcanal and Auki to support the indigenous peace monitoring council in its task of trying to restore peace and confidence in the Solomons. As usual on their peacekeeping efforts, the Australian Federal Police personnel will be unarmed and will work closely with their Solomon Islands colleagues in supporting indigenous solutions to the Solomon Islands conflict. The Australian Federal Police members of the IPMT have been selected on the basis of their experience and skills and collectively they have experience in peacekeeping missions in Cyprus, Cambodia, Mozambique, Haiti and East Timor.

(Time expired)

Goods and Service Tax: Aged Care

Senator McLUCAS (2.57 p.m.)—My question is to Senator Herron, representing the Minister for Aged Care. Is the minister aware that the Queensland branches of the AMA, the Pensioners and Superannuants League, Aged Care Queensland and the Supported Accommodation Providers Association all recently called on the government to fix the GST anomaly that is penalising up to 80,000 older Australians? Isn’t it a fact that people who have been assessed as needing support services have been unable to access government-funded home help and, as a result, they are now forced to pay the GST on essential home services? Why is the GST on these services based on whether or not they are government funded, not on the person’s actual need for the services? Doesn’t this approach inevitably lead to inequities because of the shortage of government-funded services?

Senator HERRON—I thank Senator McLucas for the question. The GST legislation clearly sets out in sections 38(10), 38(25) and 38(30) the aged care services that are GST free. These provisions in the legislation were settled by the government in consultation with the states and territories after consideration of the recommendations of the Vos committee in late 1998 and were accepted by the federal and state and territory governments. I know Senator McLucas comes from Queensland, and I know the electoral difficulty that the state government has at the moment and the fraud that is going on in relation to that matter. But I suggest she also addresses that question to the Queensland state government because, as Senator McLucas knows, the GST goes to the state government. So, if there are anomalies, they can be corrected by the Queensland state government.

The federal minister’s determinations have been made and they activate provisions in the GST act under sections 38(25) and 38(30). The minister has no power to override, alter or extend the provisions of the act. So I again suggest to Senator McLucas that she address this matter to the Queensland state government because they are getting the windfall from the GST and can correct
any anomalies that may have occurred. Section 38(25) establishes that, where an eligible aged or disabled person in a private residential aged care setting requires and is receiving the sort of personal care that is set out in items 2.1 and 3.8 of schedule 1 of the Aged Care Act 1997, they will be able to receive all schedule 1 services GST free. That is because we wish to treat like people in a like manner.

Senator Faulkner—What section is that?

Senator Herron—For Senator Faulkner’s benefit, section 38(30) establishes that community aged care packages—all home and community care and home and community care like services—funded by the Commonwealth and/or state and territory governments are GST free. Privately purchased community care services related to assistance with daily living activities as set out in item 2.1 are also GST free. These cover assistance with eating, bathing, dressing, continence management, communications and mobility. In addition, section 38(10) sets out very specifically that nursing services and 20 other health and allied services will be GST free, irrespective of who provides them—whether it be government, private or a charitable organisation. No determination by the minister is required for that to be effective. These services include dental, physiotherapy, psychology, optical, podiatry, chiropody, audiology, audiometry, chiropractic, dietary, nursing, occupational therapy, osteopathy, paramedical, speech pathology and therapy and selected alternative therapies carried out by appropriately qualified practitioners. The minister has advised that the Australian Taxation Office is in the process of establishing a special team to deal with compliance and other tax issues. I think Senator McLucas would be better concerned about why her preselection was in Townsville and not in Cairns, where the AWU had control of the factions.

Senator Hill—Madam President, I ask that further questions be placed on the Notice Paper.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Centrelink: Overseas Pensions

Senator Newman (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (3.03 p.m.)—I have a further answer to the answer I gave Senator Lees yesterday, and I seek leave to incorporate it in Hansard.

Leave granted.

The answer read as follows—

Senator Lees asked the Minister for Family and Community Services on 6 November 2000:

Can the Minister confirm that Centrelink has sent letters to thousands of Australian pensioners born overseas threatening to cancel their pensions if they do not claim a pension from their country of origin within 42 days? Is the Minister aware that this heavy-handedness on the part of Centrelink is causing considerable distress and anxiety to thousands of pensioners, many of whom fled those countries because of war or persecution? Is the start of a breaching campaign against aged pensioners, against aged and infirm people who, because of health, transport or perhaps problems with language, cannot access their local Centrelink office or cannot navigate the complex, time-consuming Centrelink call centre?

Why was this threatening Centrelink letter sent to an aged amputee with serious health problems, originally from Peru, in the case where, on the
customer’s file with Centrelink, it says specifically that there is no entitlement? It shows clearly there is no comparable pension paid by the Peruvian government.

Answer

Centrelink is in the process of writing to around 65,000 pensioners who may be eligible for a foreign pension, asking them to test their eligibility with relevant overseas pension authorities. Most of the letters have gone and many customers have already sent their requests for claim forms overseas.

The mailout is part of the implementation of the legislation that was passed by Parliament in June this year. Pensioners who exercise their rights to a foreign pension create a win-win situation for themselves and tax payers. Not only will pensioners be better off because of a likely increase in their disposable income, there will also be savings for Australian tax payers.

The mailout customers are selected on the basis of two factors:

- overseas residence information - customers provide Centrelink with their country of birth and overseas residence details at the time of pension claim.
- the likelihood of successful claim of comparable foreign payment - Centrelink compares the minimal contribution period required by the social insurance legislation of the country of birth with the length of the customer’s overseas residence.

The mailout letter asks customers to either take reasonable action to claim overseas pension or provide an acceptable reason why they should not pursue a claim. Reasonable action includes completing and sending the attached request for claim forms back to Centrelink. Acceptable reasons for not pursuing a claim include lack of contributions to overseas pension schemes, fear of persecution and health reasons. A telephone contact number is provided and Centrelink International Services, Hobart, has a special multilingual team allocated to deal solely with foreign pension enquiries.

Only if a customer refuses to take either of the above mentioned steps, may the existing Australian payment be suspended or cancelled under the CFP legislation.

Under the legislation, the notice requiring a customer to claim a comparable foreign payment must specify the period within which the reasonable action is to be taken and what will happen if the action is not taken.

The letter has been drafted to convey this information in plain English (This is important given English may be a second language for many of these customers). Unfortunately this may be being perceived by some as blunt or threatening and Centrelink regrets this. Customers are encouraged to contact a Customer Service Officer if they have any concerns or need additional information.

The Foreign Pension Amnesty (from 20 September 2000 to 19 January 2001) will enable all customers who have not declared income from their foreign pensions to Centrelink to clear their records without fear of penalties.

Apart from asking customers to commence the claiming process, the mailout letters are also designed to test customers’ eligibility for foreign pensions and invite customers to confirm or correct the Centrelink computer record. Customers are asked questions about the accuracy of their country of birth record in the context of current political arrangements, the details of their overseas residence and contributions to social security schemes. Customers are asked to return the attached request for claim forms to Centrelink with the updated information. Centrelink then, based on the new information, makes a decision whether to forward the request to overseas authorities or cease the action if the customer is clearly not eligible for an overseas pension.

The customer, whose details were provided by Senator Lees, was born and worked in Germany. The customer was accordingly asked to test her eligibility for a German pension. The customer has since contacted Centrelink and advised that she received a lump sum payment of her German pension. The matter has now been finalised and the customer’s Australian pension has not been affected.

As Peru has yet to advise whether or not pension claims can be lodged from Australia, people, who were born in Peru or recorded as only having worked in Peru, were not included in the mailout.

PERSONAL REFLECTIONS: RULING

The PRESIDENT (3.03 p.m.)—During the adjournment debate on 2 November 2000, the Acting Deputy President, Senator Crowley, undertook to refer to me a ruling she made about remarks made by Senator Watson. Senator Watson referred to the actions of certain members of the New South Wales state parliament in taking superannuation benefits while they were still members, and to the moral or ethical quality, as distinct from the legality, of such actions. Senator Crowley ruled that these references to the New South Wales members were imputations of improper motives and personal re-
flections within the meaning of standing order 193(3).

It was open to the chair to hold that these remarks fall within the prohibition in the standing orders. The remarks may be regarded as relatively mild but, given that Senator Crowley did not require Senator Watson to withdraw the remarks but merely counselled him to proceed without reflecting on the members, this was an appropriate application of the standing order.

During discussion of the matter there was a suggestion that it was significant that particular members had not been identified by name. Past rulings of Presidents, however, have made it clear that references to groups of unnamed protected persons can offend against the standing order as well as references to named persons. It was also suggested that Senator Watson’s remarks be compared with those made in recent times about a minister in the House of Representatives. It is quite possible, if not likely, given the amount of noise at question time in recent days, that unparliamentary remarks have gone unreproved by the chair. As past rulings have pointed out, this is not, however, a matter which should influence future decisions.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Nursing Homes: Kenilworth

Senator CHRIS EVANS (Western Australia) (3.05 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron), to questions without notice asked today, relating to aged care.

In his answer, the minister quite rightly pointed out that this government has applied five separate sets of sanctions against this nursing home. What he did not point out is that reports have been conducted by the aged care agency dating back to 12 June 1999 that said that there was a serious risk to the health of the residents of this nursing home due to the conditions and the management of that nursing home. They have had at least three separate reports that said that the people who reside in that nursing home were at serious risk to their health. They had one in June 1999, another in March 2000 and another again in September this year. They have had at least three reports, probably more, which say that the people resident in that nursing home—the old and the frail residents of that nursing home—are at serious risk to their health. It is the government’s own agency that has come to those conclusions.

The question I want to ask the minister, which he did not address, is this: what have they done about it in that time? He said that they have had five sets of sanctions. Those sanctions have clearly been ineffective, because we know that the conditions have not been improved. Throughout this period that he says they have been monitoring the home, and time after time they conclude that the residents are at risk. They conclude that there is a serious risk to the health of the old people living there. What do they do? They go away, and a few months later they come back, write another report and say again that the old people living in those nursing homes are at serious risk. They say, ‘See, our system is working. We have reports here that say those people are at serious risk. Clearly, the system is working.’

I put it to the minister: clearly the system is not working, because those people continue to live in conditions which the department says pose a serious risk to their health. They continue to live in dangerous conditions without adequate care, and the government do nothing about it. The government concede that their own sanctions have failed, their own regime of regulating aged care providers who are not playing the game, not providing aged care of an appropriate standard, have failed. What do they do about it? They say that on 1 January of next year it will all be fixed, because the accreditation system will come in.

But the other thing the minister said in his answer today is, ‘By the way, the owner of the Kenilworth nursing home has not applied for accreditation. He’s not in the system.’ He’s clearly running down his premises, running down the home, with a view to fleeing the industry and selling his licences. He is doing this not just at Kenilworth but also at another nursing home, Belvedere, a home that has also had numerous bad reports of
numerous serious risks to the health of the residents, one that has also had numerous sanctions. So you have the owner of these two nursing homes having numerous sanctions imposed against him and a number of reports saying that the people who are living in his homes are not receiving appropriate care. They are in a state of care that poses a serious risk to their health, and all the government do is keep filing reports, keep hoping the problem will go away.

The other interesting thing about this owner is that an allegation was made to the department about two years ago that he had a conviction for stalking, that in fact he was ineligible to be a nursing home provider because he had a criminal conviction. Do you know what the department did with that complaint? They sat on it for 18 months. They did not investigate this most serious complaint about a person who is running two of the worst nursing homes in the country. They had staff saying, ‘But this bloke is convicted of an offence of stalking. This rule makes him ineligible for owning a licence,’ and the department did not even look at it for 18 months. When I raised it in estimates, they said, ‘Yes, we’ve had a bit of a problem about that. We meant to do something about it. We have not got around to it, but we will get onto it straightaway.’ Two years later, still no action.

So you have got a bloke who is alleged to have been convicted of stalking. He has run two of the worst nursing homes in the country. They have report after report that the places he runs are not up to standard, that there is a serious risk to the health of the residents, and still he runs those homes. And now he is running them down. I understand that at Kenilworth there may only be 11 or 12 residents left. But who is looking after those residents in the meantime? I have reports that the staff levels have dropped considerably, the level of care has dropped considerably. He is leaving the industry but in the meantime what standard of care are these people getting, and what are the government doing to protect them? The answer is nothing, because they do not want another Riverside. They refuse to close another nursing home because of the pain they took over that closure, because of the way they bungled the closure. But if ever a nursing home needed to be closed, if ever a provider needed to be driven out of the industry, this is the case. *(Time expired)*

**Senator CALVERT** *(Tasmania)* *(3.10 p.m.)*—You probably want to ask why I would be standing up here today speaking on this matter, but I can tell you that back between 1992 and 1996 I had a very close relationship with the aged care industry in my home state of Tasmania, mainly because I had close relations involved in aged care and dementia care. For the Labor Party to come in here and talk about the coalition’s record on aged care is just blatant hypocrisy, because of the shameful record they left. My family and I experienced it first-hand, and for them to come in here and start to tell us what we have not been doing is just too much altogether.

Remember that back in 1994 the former government commissioned the Gregory report. After Professor Gregory investigated 150 nursing homes he concluded that 75 per cent of the homes needed fixing or rebuilding to meet the Australian design standards, 70 per cent of homes needed fixing or rebuilding to meet the Commonwealth outcome standards, 13 per cent of the homes did not meet fire authority standards, and 39 per cent of residents were in rooms with four or more beds. That was the Labor Party’s record. I recall that at the time Gary Johns, a member of the Labor Party, said in a report: My generation will inherit the largest stock of capital ever in the nation’s history, and generally we earn better than our parents. It seems fair, then, to use some of that inheritance to keep up a good quality of care for those who need it. When the Howard government came into power in 1996 they had a huge backlog. Not only did Labor cut capital funding for nursing homes by 75 per cent in its four years but also there was no access to private capital funding for nursing homes. Banks were reluctant to lend to providers on this basis, and it left facilities with absolutely no way to improve the standard of living for their residents. I can attest to that, because my family were in some of these homes in Tasmania.
In recent times I have been involved in the accreditation system and on behalf of the minister presented accreditation certificates to Southern Cross Homes, Guilford Young Home and Sandown Village. Next week it will be the Lillian Martin Home on the eastern shore, the Freemasons Homes—there’s a tip for you this afternoon—Mary Ogilvy Home in Hobart and Huon Eldercare out in the Huon Valley. I invite every Labor senator from Tasmania to go and see the changes that have been made to those places in the last three or four years to see what has happened since the coalition have come to power. Over the last four years we have made about $30.8 million available for capital funding for residential aged care, and you can see the difference already. More than 17,000 new places have been allocated to areas of need around Australia since the coalition government came to office—6,400 have been in residential care places, and 10,800 have been in community care places.

What about the carers? I was a member of the Carers Association for four years, and I have to say that the work they were doing, without being paid, in looking after their own people had to be seen to be believed and experienced. They were ignored by the previous government. Who was going to care about the carers? I am pleased to say that funding for carer respite centres has increased by over 50 per cent since the coalition came into power. Around 100,000 carers are assisted annually by carer respite centres, and the regional network of carer respite centres has been expanded, with an extra $7 million. At last, the carers have somebody that is caring about them.

One of the most important things for carers who are caring for loved ones at home is to have some respite. Under the previous government they received very little assistance at all, but since we have been in power—particularly in dementia respite services—we have allocated another $10 million over the next four years. I can attest to that from my own personal experience with Adards Nursing Home in Hobart, which Senator Mackay would know of. They tried for years to get extra beds. It is only since the coalition have come to power that we have been able to get extra beds for them and that they have been able to care for those people in our community who have dementia problems. *(Time expired)*

**Senator Faulkner** (New South Wales—Leader of the Opposition in the Senate) *(3.15 p.m.)*—What a disappointment today to hear the Diatribe that we heard from Senator Herron on the very important question of nursing homes. Of course I think it is fair to say to the Senate this afternoon that the state of the nursing home sector is a Far Cry from what it should be. Homes are closing down because the government, Minister Bishop and Senator Herron, who sits there like old Arctic Owl, have completely messed up nursing home policy in this country and ineptly administered the accreditation system that they brought in as an attempt to justify their efforts. We have seen many performances from Senator Herron in question time. He is no Lightning Arrow, as everyone here would be aware. We know that he has engineered his preselection again for the Queensland Senate ticket. I do not expect him to have a Second Coming as a minister, I might say. But his miserable handling of his own portfolio responsibilities—

**Senator Hill**—At least he is not a Freemason.

**Senator Faulkner**—We will get to that later, Senator Hill.

**Senator Hill**—He is a Far Cry from being a Freemason.

**Senator Faulkner**—Senator Hill tries an amusing interjection in this important debate. I would have thought a more graceful interjection from Senator Hill would have been appropriate—‘Senator Hill of Grace’, as he is well known to all of us in this chamber. But it is an important point to mention that Senator Herron has been exposed in this chamber time and time again for the pathetic handling of his own portfolio, of ministerial responsibilities and of the portfolios he represents in this chamber. The member for Bradfield—Mr Nelson—is breathing down Senator Herron’s neck. Of course he is after the Aboriginal affairs portfolio. As for Mrs Bishop, she is the author of this Bohemiath of a policy on aged care that threatens to
drag the government down at the next election.

Senator Hill—Who wrote that one?

Senator FAULKNER—Well, Senator Hill, you get this Pravda like enthusiasm from the government, as you would appreciate. I am delighted that you are listening to this speech, because I know that, apart from the two or three people in this chamber, all other Australians are concentrating on other matters at this particular time. Given this sort of Pravda like enthusiasm you get from the government about nursing home policy, you would almost swear that the government believed you had people living in—

Senator Hill—What a Diatribe!

Senator FAULKNER—Senator Hill, you are so clever—nursing homes as good as Coco Cobanna clubs, nursing homes on Majestic Avenue, according to the government.

Senator Calvert—You guys have been sitting on a perch like an Arctic Owl for the last 13 years.

Senator FAULKNER—You are very slow too, Senator. But let me say that this is an important issue. As the opposition has said consistently, privatisation—the government’s ideological approach—is not the answer to these problems. The government cannot simply leave nursing homes just to the not-for-profit sector, whether it be the churches—the Catholics, the Anglicans—or other organisations, like the Freemasons and so forth. Let me say that, with all Hind-sight, that appears to be the only capacity, the only acuity, that remains left to the government. Surely even with Hind-sight all of us can see that there really is trouble Brewing in the aged care sector. I think we ignore this serious issue at our peril. I know very few people are listening, and my time is up. I am sure that everyone else in the chamber would say, given that I have concluded my remarks, ‘Yippyio.’ (Time expired)

Senator LIGHTFOOT (Western Australia) (3.20 p.m.)—To just briefly continue the analogy that, Senator Faulkner, the Leader of the Opposition, began his contribution with here today in this motion to take note of answers, that was a Diatribe. But I could just perhaps comment on the title that Senator Faulkner gave to Senator Herron, the Minister for Aboriginal and Torres Strait Islander Affairs and Minister here representing Minister Bishop: he is an Arctic Owl in the sense that he is very wise. So I take that as a compliment, Senator Faulkner, that you should have referred to one of our senior ministers as Arctic Owl. Of course owls are synonymous with being wise.

But the opposition claims, as part of its Diatribe here today, that nursing home beds are about 9,000 short of what we need. When we came into office in 1996, partly because of the $10.4 billion deficit that was supposed to be a balanced budget that the Labor Party left us with, the Labor Party's record with respect to nursing homes and aged care in general was abysmal. Good treatment of our revered aged people was certainly not reflected in the administration of either the Keating or the Hawke government during those 13 years of hard Labor.

We rebut the claim that there are 9,000 beds short in the aged care area. The Labor Party keep telling fibs, trying to upset aged people, in much the same way as they try to create a sense of fear throughout the electorates of Australia. The fact of the matter is that the annual report that was tabled recently—and which has been used by the opposition—shows the places as of 30 June 2000. It takes no account whatsoever of the new round for this year, which Minister Bishop announced, in which there are 14,777 places, for the most part in the 1999 round. This is quite clear in the annual report. Page 315 of the annual report says:

These figures do not include a significant proportion of 1999 approvals nor any of the year 2000 approval round. Taken together, the operational approved and announced places would be sufficient to meet the benchmark at the present time.

That completely rebuts what the Labor Party has said. The Labor Party keeps telling fibs, trying to spread fear throughout the electorates of Australia. In other words, the alleged 10,000-place deficit identified by the Labor Party and the Auditor-General has, in the last two years, with the provision of 22,000 places, been more than made up. It is about time that the Labor Party was honest, at least with our aged people. I do not understand
Another report—the Productivity Commission report titled *Long-term aged care: expenditure trends and projections*—confirms predictions that Australia can afford the services necessary for an ageing population as long as we maintain growth. That growth currently is being delivered by the Howard coalition government. That growth, since we came to office in 1996, has been an average of 4.2 per cent annually. Australia has the highest level of growth of the 29 countries in the OECD. Australia has a combination of the satisfactory growth achieved by the Howard coalition government and an appropriate allocation of beds in aged care homes and facilities that the Auditor-General has ticked off on. Where is the difference? Canada has 4.1 per cent growth—the second highest. The United States, over that same period, has four per cent growth. But Australia has the highest. We have the growth; the Howard government will continue that growth. Aged care places are there. There is no deficit. We have those three fundamental aspects in our aged care programs, and the Labor Party is, as usual, with its fear, spreading fibs.

*Senator MACKAY (Tasmania)* (3.25 p.m.)—I think Senator Faulkner pretty much cleaned it up in relation to aged care. It remains to me to mention a couple of things that Senator Faulkner may have omitted. As the one remaining client of Jerry Maguire famously said, ‘Show me the money.’ That is the bottom line here in relation to aged care and this government: show me the money indeed. This is the sort of reassurance that I think aged Australians and the people of Australia need before they end up in the ultimate celestial show which I suspect we all will end up in. Having cleared up those few omissions of Senator Faulkner, I will now speak about aged care more particularly.

The reality is that, as with most issues in regional Australia, the government is in denial about aged care. Senator Calvert earlier outlined the position, as he saw it, in Tasmania. I would like to bring to Senator Calvert’s attention—he probably is one of the few people in Australia who is listening to today’s taking note of answers to questions—comments made by the Parliamentary Secretary to the Minister for Employment, Workplace Relations and Small Business, Mr Mal Brough, about aged care. I appreciate Senator Calvert’s commitment to this issue—I am not casting aspersions on him—but I believe that these comments need to be taken up, and I have confidence Senator Calvert will take them up. During a speech by the excellent member for Bass, Ms Michelle O’Byrne, on aged care, Mr Brough repeatedly interjected. I think one of the interjections deserves mention in the Senate. When Ms O’Byrne was pointing out the parlous situation of aged care in Tasmania, Mr Brough interjected by saying:

‘You can’t whinge; you are from Tasmania, you get more than anyone. Do you want us to take it away from you?’

That was not very gracious, I would have thought. We in Tasmania certainly do not want anything taken away from us. That quote was taken from the *Hansard* of 11 October 2000.

The Prime Minister made a now totally discredited commitment to regional Australia that every time a cut impacted on regional Australia a red light would, as he put it, flash in his office. He wrote, as I understand it, to other ministers asking them to advise him when they were undertaking such initiatives. The reality is that the red light is pretty much on high beam at the moment. The infamous Nyngan agreement is not worth the paper it was not written on. Since the Prime Minister went out there we have seen major cuts to services and jobs in regional Australia, something which he said would not happen.

Today the Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron, representing the Minister for Health and Aged Care, Ms Bishop, seemed to be at a loss to identify what targets the opposition was talking about. These targets are the government’s own targets. They were Labor’s targets. They are the same targets that have existed in aged care for 20 years. But let us have a look at specific regions. In Victoria, Moonee Valley has a shortage of 321 aged care beds; Moreland has a shortage of 521 aged care beds; and the Mornington Penin-
sula has a shortage of 427 aged care beds. The reality is that access to residential aged care has declined every year under John Howard and is now at an all-time low.

The government has failed to meet its own targets with respect to aged care, and this shortfall is getting worse. The government’s own target was that there be 90 beds per 1,000 people aged 70 years and over. In 1996, there were 90.5 beds per 1,000 people aged 70 years and over; in 2000 there are just 84.3 beds per 1,000 people aged 70 years and over. This represents a shortfall of 9,371 residential aged care beds nationally. They are the types of benchmarks that ought to be used rather than straight figures, rather than actually saying that there has been a dollar increase. That does not reflect (a) the ageing nature of the population or (b) real term increases. This is the sort of thing that the Prime Minister said would not happen in regional Australia, and this is the sort of thing that we have come to expect is happening routinely. Where does it impact? Most disproportionately in those areas that can least afford it, and those people are in regional Australia.

Question resolved in the affirmative.

Southern Bluefin Tuna: Quota

Senator GREIG (Western Australia) (3.30 p.m.)—I move:

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Hill), to a question without notice asked by Senator Greig today, relating to the fishing of southern bluefin tuna.

Senator Hill gave what I thought was a reasonably comprehensive answer, but he did fail I think to mention three very important factors which he could and should have spoken about regarding this issue and which have been overshadowed in today’s brief response—a six-minute response—from the minister.

Firstly, it is very important to understand, in relation to the protection and sustainability of southern bluefin tuna, that there is an opportunity to have that particular species protected under CITES—that is, the Convention on the International Trade in Endangered Species. A number of organisations have already written to Senator Hill and others, including Minister Warren Truss, the minister for fisheries, arguing the case that the Australian government should reconsider its current position in relation to a CITES nomination for the southern bluefin tuna—that is, the government currently has a policy that this particular species of fish ought not be included. However, the Humane Society International is one group, for example, that has advised the government it should pursue a CITES appendix II nomination for southern bluefin tuna, and it did so at the last conference of the parties in April this year. Instead of relying solely on the International Tribunal for the Law of the Sea court case, we have seen, for example, the recent court case in which Australia argued against Japan continuing its apparent overfishing of southern bluefin tuna fail on legal technicalities. Clearly that is not an adequate response or one we should continue to pursue if we are serious about protecting this species. So one of the things the minister could have spoken on today but did not was the reference to CITES and the fact that the government has not taken any particular action in that direction.

In his answer the minister also said that the government was keen to negotiate with Japan in terms of its argument for increasing its catch by some 2,000 tonnes so it can do experiments and experimental fishing with this particular species. I suspect that, when Minister Hill says that the government will negotiate with Japan, he is really saying that the government has acknowledged that there is precious little that it is willing to do, that the political will is lacking in this particular instance, and that ‘negotiate’ really means giving in to what the Japanese are currently demanding.

For example, we know that the Japanese have for some time been arguing that they ought to be allowed to have particular quotas—and they currently act within these—to continue the fishing of certain whales, arguing that they are fishing them for experimental purposes. There was some considerable media interest some months ago in an advertising campaign which Japan had undertaken in, I think, South Australia to try to
convince Australians that for the Japanese to kill and eat whales was as everyday and as ordinary as Australians eating meat pies. That was part of a very particular propaganda campaign by the Japanese to try and win over support from Australians and Australian voters for that particular industry when in fact Australians find the idea abhorrent.

The truth is that most Australians are also deeply concerned about the overfishing of southern bluefin tuna. I suspect that the only experimentation that the Japanese are doing on them is how thinly they can slice them and which particular brand of wasabi makes the best eating. It is not acceptable, and Australia must make more sustained and appropriate efforts to deal with this particular species of fish. Japan’s quota is already the lion’s share of the three parties which are able to access the quota—the other two being Australia and New Zealand. I believe that for Japan to argue for an additional 2,000 tonnes is just plain greedy and unnecessary and that the government and the environment minister in particular must take a more serious approach to the protection of this species.

Question resolved in the affirmative.

NOTICES

Presentation

Senator Tierney to move, on the next day of sitting:

That the Senate—

(a) notes:

(i) that an environmental impact statement for the Newcastle-based BHP multi-purpose shipping terminal, has found that the Botany Bay terminal will reach capacity in 3 to 5 years, and

(ii) that this paves the way for Newcastle to provide a much-needed east coast facility, which will have direct benefits for regional businesses and producers;

(b) calls on Hunter development organisations to promote the Hunter’s capacity and superior location with the relevant industries; and

(c) urges the New South Wales Government to show support for the multi-purpose shipping terminal in preference to Port Botany, with the potential to create hundreds of direct and indirect jobs for the Hunter region.

Senator Crossin to move, on the next day of sitting:

That the following matters be referred to the Joint Standing Committee on the National Capital and External Territories for inquiry and report by 5 April 2001:

(a) the development and implementation of the tender process followed in the sale of the Christmas Island resort; and

(b) the outcome of the tender process, the current status of the resort and proposals for the resort’s future development.

Withdrawal

Senator CAL VERT (Tasmania) (3.36 p.m.)—Pursuant to notices given on the last day of sitting, on behalf of Senator Coonan and the Regulations and Ordinances Committee I now withdraw business of the Senate notice of motion No. 1 standing in Senator Coonan’s name for six sitting days after today, and business of the Senate notice of motion No. 1 standing in Senator Coonan’s name for 10 sitting days after today.

Presentation

Senator O’BRIEN (Tasmania) (3.36 p.m.)—On behalf of Senator Evans, pursuant to standing order 78(1) I give notice of his intention at the giving of notices on the next day of sitting to withdraw business of the Senate notice of motion No. 1 standing in the name of Senator Evans for today for the disallowance of the Child Care Benefit (Breach of Conditions for Continued Approval) Determination 2000 and the Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000, made under subsections 200(5) and 205(1), respectively, of the A New System (Family Assistance) (Administration) Act 1999.

Postponement

Items of business were postponed as follows:

General business notice of motion no. 754 standing in the name of the Chair of the Select Committee on Superannuation and Financial Services (Senator Watson) for today, relating to the reference of a matter to the Select Committee on Superannuation.
and Financial Services, postponed till 8 November 2000.
Business of the Senate notice of motion no. 1 standing in the name of Senator Evans for today, relating to the disallowance of certain determinations made under the A New Tax System (Family Assistance) (Administration) Act 1999, postponed till 8 November 2000.
General business notice of motion no. 737 standing in the name of Senator Allison for today, relating to the Advanced English for Migrants Program, postponed till 8 November 2000.

COMMITTEES
Community Affairs References Committee
Meeting
Motion (by Senator O’Brien, at the request of Senator Crowley)—by leave—agreed to:
That the Community Affairs References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on 8 November 2000, from 10.30 am to 11.30 am, in relation to its inquiry on child migration.

PARLIAMENTARY ZONE
Garbage Hopper Enclosure, West Block
Motion (by Senator Ian Campbell, at the request of Senator Minchin) agreed to:
That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being a garbage hopper enclosure at West Block.

COMMITTEES
Foreign Affairs, Defence and Trade References Committee
Meeting
Motion (by Senator Hogg) agreed to:
That the Foreign Affairs, Defence and Trade References Committee be authorised to hold a public meeting during the sitting of the Senate on 10 November 2000, from 9 am to 3 pm, to take evidence for the committee’s inquiry into the disposal of Defence properties.

Migration Committee
Meeting
Motion (by Senator O’Brien, at the request of Senator McKiernan) agreed to:
That the Joint Standing Committee on Migration be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on 7 November 2000, from 8 pm.

Superannuation and Financial Services Committee
Meeting
Motion (by Senator Calvert, at the request of Senator Watson) agreed to:
That the Select Committee on Superannuation and Financial Services be authorised to hold a public meeting during the sitting of the Senate on 27 November 2000, from 3.15 pm to 6.30 pm, to take evidence for the committee’s inquiry into the Taxation Laws Amendment (Superannuation Contributions) Bill 2000.

Legal and Constitutional Legislation Committee
Meeting
Motion (by Senator Calvert, at the request of Senator Payne) agreed to:
That the Legal and Constitutional Legislation Committee be authorised to hold public meetings during the sittings of the Senate:
(a) on 10 November 2000, from 9 am to 2 pm, to take evidence for the committee’s inquiry into the Crimes Amendment (Forensic Procedures) Bill 2000; and
(b) on 28 November 2000, from 7 pm to 9.30 pm, to take evidence for the committee’s inquiry into the provisions of the Sex Discrimination Amendment Bill (No. 1) 2000.

AUSTRALIAN FLAG
Senator Brown (Tasmania) (3.41 p.m.)—I ask that general business notice of motion No. 718, standing in my name for today, which calls for a referendum for Australia to adopt a new Australian flag, be taken as a formal motion.
Leave not granted.
Suspension of Standing Orders

Senator BROWN (Tasmania) (3.41 p.m.)—Pursuant to contingent notice of motion, I move:

That so much of the standing orders be suspended as would prevent me moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business notice of motion No. 718.

I am not sure why the Labor opposition has objected to formality on this motion, but I am sure that is going to lead to a full debate on the matter as an outcome of the next vote. I should acquaint the chamber with this motion again. It calls, firstly, for the Senate to support a new national flag without the Union Jack and, secondly, for the government to initiate a national competition, followed by a referendum, for Australia to adopt a new Australian flag.

If there was one thing that was very clear at the Olympics, it was the abundance of competing flags for Australia. It was quite extraordinary how the host nation was the one nation that was so unsure of itself when it came to the national flag, and that is because the current flag so highlights the flag of the past colonial power, the United Kingdom, rather than something which is obviously, generically and specifically Australian. We as a nation on the eve of the new millennium ought to be moving to allow a popular expression of support for a flag which is truly Australian and which is not confused with our colonial past but one which celebrates modern Australia as an independent nation that is mature, confident, sure of itself and proud to identify itself specifically through an Australian motif. What more important way for us to do that than through the emblematic component of our flag?

There will be those who argue that flags do not matter but, in the real sense of giving identity for Australians at home as well as overseas and taking part in international congress, sporting events and even conflict, it is very important in that sense for us, together as an independent and sovereign nation of people taking our role in this rapidly globalising world community, to feel confident and united about that emblem. In the year 2000, we do not. In the year 2000, as was shown at the Olympics, many people preferred a boxing kangaroo to a flag with a Union Jack. While one might have seemed a little flippant, it is at least quite obviously identifiable as Australian whereas the current flag is, at best, identifiable only as a colonial hangover.

Legislation has been passed in this parliament to say that we cannot change the flag without a referendum, without reference to the people. I think it would be an act of faith in the people to give them that opportunity, and I see at least one government member opposite nodding his head. I believe, and it is quite clear, that the road to that referendum is through the initiation of a search for a good alternative. That should come through a national competition. My motion calls for that national competition to get up and get going and for a referendum to follow that. I do not believe we should continue to shrink from that and I feel that that is difficult, because that in itself will be divisive. This is a democracy. Let people have the opportunity. Let us, like Canada, as soon as possible have an emblematic component in our flag which says, ‘This is Australia. I am Australian. Wherever I go, this is identifiably an Australian flag, not a mishmash of the colonial past.’ (Time expired)

Senator HARRIS (Queensland) (3.46 p.m.)—I rise to speak against the motion to set aside standing orders. I believe Senator Brown’s motion is out of order and would like to briefly comment on the significance of the flag that we have. It has served Australia—

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Senator Harris, I might interrupt you. In this debate, you are not entitled to directly comment on the issue of the flag. The debate is about why standing orders should or should not be suspended in relation to Senator Brown’s motion on the flag. Please bear that in mind in your remarks.

Senator HARRIS—On your ruling, Mr Acting Deputy President, Senator Brown has spent the entire period of his speech saying why we should have a change of flag. But, when I make one reference to the flag that
we have and the inappropriateness of the motion, you call me to order. I clearly state that I will be voting against the motion to set aside the business of the Senate.

**Senator O'BRIEN (Tasmania)** (3.48 p.m.)—Senator Brown said a lot of things about the flag which would strike a chord with many people in the Australian community. But I think a great many would oppose what Senator Brown said, and quite a number of others would be supportive of what Senator Brown said as to why we should, as a matter of urgency, debate this motion.

I presume Senator Brown will be seeking the opposition's support for the motion. I do not think we can support either proposition at this stage. It is a matter which should not be proposed precipitously. If there were a strong view within the community that this should happen, we would be receiving much stronger representations about the matter than we have been receiving. For that reason alone, it cannot be said that this matter is urgent in terms of the business of the Senate and that we should deal with it at this time. In my personal view—and I stress that—it is probably a matter which will be addressed in the foreseeable future by one government or another. One would have to say that, whatever the Senate passed, there is no way that we would contemplate the Howard government initiating a referendum on the motion proposed by Senator Brown to change the flag or taking any action to initiate a national competition to do so. Having said that, I think I have demonstrated the case why this motion on this day is not urgent.

**Senator IAN CAMPBELL (Western Australia)**—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.50 p.m.)—Mr Acting Deputy President, it will surprise you, I know, to hear that the government will not be supporting this motion. We will not be supporting it for a number of very practical reasons in relation to Senator Brown's clearly not even attempting to make a case for the urgency of this matter. It is a broadcast day. I suspect that not many people are listening to this broadcast. They are probably listening to the wrap-up of a horse race in Victoria. At the Olympics and the Paralym-pics, the Australian flag was probably embraced by more Australians and more people around the world than ever in the history of that most beautiful emblem, that most beautiful ensign and that most beautiful symbol which is our Australian flag. But to propose this within virtually the same month that the flag has been widely recognised as a great symbol of this fantastic, beautiful and great nation of ours is clearly nothing more than a cheap, pathetic political stunt, which of course is the hallmark of Senator Bob Brown's career in this place. We look forward to defeating this motion with vigour and enthusiasm.

Question resolved in the negative.

**CONVENTION ON CLIMATE CHANGE (IMPLEMENTATION) BILL 1999**

**Report of Environment, Communications, Information Technology and the Arts References Committee**

**Senator BOLKUS (South Australia)** (3.52 p.m.)—On behalf of Senator Allison, I present the report of the Environment, Communications, Information Technology and the Arts References Committee on global warming and the Convention on Climate Change (Implementation) Bill 1999, together with the Hansard record of the committee's proceedings, submissions and other documents received by the committee.

Ordered that the report be printed.

**Senator BOLKUS**—I seek leave to move a motion in relation to the report.

Leave granted.

**Senator BOLKUS**—I move:

That the Senate take note of the report.

This inquiry was instigated as a result of significant concern raised about the issue of climate change and its potential impacts not only on the environment but also on the economies and the communities that depend on it. It has been a year-long inquiry and we have consulted widely. The secretariat—I must begin by recognising their work—has been a great support in this process, and I particularly thank Andrea Griffiths, Tony Burke, David Arnold, Roxane Le Guen and the staff who supported them, and us in turn.
The report tabled this afternoon confirms that an enormous global problem is facing the international community. The greenhouse problem is a real problem. It provides a challenge that we must meet unless we want to risk devastating impacts on our environment. That presents enormous opportunities that we must seize if we wish to equip our economy to benefit from global opportunities. Australia’s per capita greenhouse gas emissions have shot to the highest in the world and they are growing at a faster rate than the economy. While the rest of the world moves to break the nexus between economic growth and energy consumption, Australia continues to increase its use of greenhouse intensive fuels, and emissions are skyrocketing. This report confirms several things. It states:

The international community has accepted the reality of human-induced climate change, and has begun to heed the warnings of scientists that, if action to reduce emissions is not taken, this will lead to substantial and damaging changes in global climate over the next century and beyond. Almost all the witnesses who appeared before the committee accepted these findings. A broad range of stakeholders, from energy intensive industries to conservation groups, have endorsed these findings—as has the Howard government. The government does not refute the science or the predictions of climate change.

If climate change continues unabated, the International Panel on Climate Change has predicted that global mean temperatures will increase by between one degree celsius and 3.5 degrees celsius by the year 2100 and that the sea level will rise by between 30 and 95 centimetres. Such increases will be the fastest sustained global rates seen for the last 10,000 years and, within a century, could take the earth to temperatures not experienced for more than 100,000 years. Within Australia, assessments by CSIRO suggest that the impacts on Australia could include dramatic changes to rainfall with potentially longer droughts or increased flooding, further aggravation of soil salinity and land degradation, a loss of biodiversity, and severe damage to coral reefs. We must be seriously concerned about the potentially significant economic, social and environmental impacts of climate change on this country.

What is required—and what has been required for the last five years—is an early prioritised strategic response to ensure that Australia will be positioned for a global carbon constrained future and will be placed to take advantage of growing global markets for sustainable energy solutions. Smart countries and smart industries are doing this, and we need to do it too. We talk in this country of the need for a new economy. We are told that the value of our dollar will hover around US30c to US40c unless we embrace a new economy. When we talk about a new economy, we need to understand that it must also mean an environmentally clean and technologically advanced economy. The opportunities are there for us to explore not just within Australia but also within our region.

But as this report and evidence before the committee have shown, the last five years have been characterised by a failure to act. We have had five wasted years on greenhouse policy, born out of divisions in government, a factionally based gridlock between Senators Hill and Minchin, and a lack of leadership from the Prime Minister. In Kyoto in 1997 Australia bought valuable time in which to reduce our greenhouse emissions by negotiating a generous target to limit the increase in emissions to an average 108 per cent of 1990 levels—one of only two countries to be allowed to increase emissions. When Senator Hill goes to The Hague later this month to argue for even more flexibility, he will be severely discredited by the fact that the Howard government has wasted the three years since Kyoto. The longer effective action is delayed, the more difficult it will be to meet the targets agreed to under the Kyoto protocol. Indeed, the longer effective action is delayed, the more stringent and difficult targets we will probably have to face.

Even the government has admitted that its policies are unlikely to achieve our Kyoto targets and that Australia’s national emissions in 1998 were 16.9 per cent above 1990 levels, excluding land clearing. Not only have we had a lack of leadership from this
government but, even when we have had government programs, they are failing to deliver outcomes. That must be of concern to us as a nation and to individual taxpayers paying for that funding. This area is littered with broken promises. For instance, the Prime Minister’s 1997 ‘Safeguarding the Future’ package has not been fully implemented. There has been little progress on many of the measures. For instance, the voluntary greenhouse program is plagued by concerns as to whether it has achieved emissions reductions over business as usual. There are currently no generator efficiency agreements in place and the measure is now not expected to be fully implemented until 2005, although those agreements were expected to be in place this year. Even though some progress has been made—the minister was claiming progress in question time today—towards the inclusion of mandatory requirements for energy efficiency in building codes, those codes are still years from completion. The National Greenhouse Strategy remains largely unimplemented due to a lack of leadership from the Commonwealth government and tardy planning by some of the states.

The report and the process have identified the biggest challenges facing Australia. They can be listed as: halting the rapid and unrestrained growth in energy emissions; recognising the limitations of voluntary programs to achieve significant verified emissions reductions; committing to tackling the structural impediments to greenhouse abatement, particularly relating to the electricity sector; integrating greenhouse policy with economic, transport, industry, agriculture and energy policies; halting the high rates of land clearing; and conducting adequate, properly balanced research on the social, environmental and economic impacts of climate change on the regions of Australia. It is obvious that far more serious efforts are needed in order to reduce emissions.

As we approach COP6 at The Hague, there have been consistent calls by certain sectors of industry to the government to have the ‘national interest’, as they define it, drive the government’s negotiating position. Some sectors of industry have claimed that the costs of reducing emissions will have detrimental impacts on Australia’s national interests and economic growth—but there will be substantial costs to the economy, the community and the environment by failing to adequately address climate change. These are costs that many within industry and the Howard government have failed to recognise and take account of.

I believe also that there are quite a few people around in the community who, in anticipation of a Bush win in the United States, a Bush presidency, think that the whole issue will go away and demands and international expectations will falter and fall. I think that is a false hope, one that is based possibly on a false expectation—a false hope in that this sector, this policy imperative is one that continues to drive much policy thinking across the world, even though many questions remain unanswered post Kyoto. There is, in a sense, economic activity going on worldwide—part of regenerating, recreating economies and communities; part of restructuring within country after country—that drives not just a new economy based on IT in itself but a new economy based on recognising that its application, particularly in the environmental sector, can produce enormous outcomes and critical masses in terms of business activity. We in this country need to embrace that; we need to be at the vanguard of it.

So far, for instance, one of the failures that we have had within this country has been in the economic modelling. Economic modelling undertaken to estimate the costs of emission abatement has been generally characterised by a lack of public scrutiny, flawed assumptions, failure to incorporate costs from inaction, failure to acknowledge the full scope for the accelerated uptake of low- and negative-cost energy efficiency opportunities and so on. There needs to be a better process. The committee has made a whole raft of recommendations to address that issue.

Basically, what we have in this committee report—even though some may not agree with the recommendations—is a good compendium of state-of-the-art evidence, the latest evidence, in terms of the nature and extent of the problem internationally and
within Australia. We also have, I think, the basis for moving forward in terms of meeting the greenhouse challenge and the greenhouse problem, in terms of the recommendations of this committee. They are extensive. They go to domestic and international action, they go to Australia needing to restore a leadership role on this issue and they go to Australia introducing domestically effective programs. As I say, they are a basis for action in the next few years. Mr Acting Deputy President, at this stage I would finish my remarks by commending the chair for the way she has tackled the job over the last year or so in the deliberations of this committee. (Time expired)

Senator ALLISON (Victoria) (4.03 p.m.)—Mr Acting Deputy president, I apologise for not being here at the tabling of the report, and I thank Senator Bolkus for doing it on my behalf. The task of the Environment, Communications, IT and the Arts References Committee was to look at the progress and adequacy of Australia’s policies to reduce global warming. Our terms of reference included the effectiveness of our greenhouse emission reduction policies in meeting Kyoto protocol commitments and a comparison of Australia’s efforts with those of other countries. We also looked at the latest science on the impact of climate change and the social and equity consequences of greenhouse abatement. Central to our inquiry was an examination of energy and transport policies and the potential to develop Australia’s emerging renewables industry and implement new energy technology. The committee explored potential improvements in Australia’s policies to reduce greenhouse emissions and examined the impacts on Australian industries, such as tourism, fishing, agriculture and others.

When the Kyoto protocol to the UNFCCC was negotiated in 1997, Australia bought valuable time in which to reduce its greenhouse emissions. Australia’s target was generous in relation to that of most other countries: to limit our emissions to an average of 108 per cent of 1990 levels in comparison with 95 per cent for most other developed countries. However, the time bought at Kyoto is rapidly running out; it is running out because Australia’s emissions are already well over our Kyoto target and continue to increase. If we do not begin to trial and implement effective reduction measures soon, we will lose the chance to meet that target at least cost to the national economy.

Australia’s per capita emissions have shot to the highest in the world, and the most recent national greenhouse gas inventory shows that Australia’s national emissions in 1998 were 16.9 per cent over 1990 levels; that is, excluding land clearing. Official projections indicate that current abatement measures are unlikely to achieve our reduction target, and emissions could be at more than 123 per cent of 1990 levels by 2010. There is now a strong scientific consensus that climate change is gathering momentum and that a 70 per cent reduction in global emissions over the next 200 years will be necessary to stabilise climate systems and prevent dangerous levels of climate change. Australia will likely face far more stringent targets after 2012 in the second Kyoto commitment period.

Australia needs concerted action to reduce its emissions now. A global effort will be required to avoid the most damaging impacts of climate change on Australia, and the committee concluded that we must make a commensurate effort to reduce emissions. Australia should also look upon early ratification of the Kyoto protocol as an opportunity to place us in a more constructive light internationally, a more favourable bargaining position, and take the positive industry opportunities offered through ratification. The success of the Kyoto protocol will also be the best chance to attract developing countries into a global effort.

The committee found that, although the government and the Australian Greenhouse Office were making many positive and proactive steps to get Australia on the right path, our emissions are rapidly outstripping the ability of policy to control them. Our view is that the current ‘no regrets’ approach is not working and that mandatory measures, such as emissions trading and a greenhouse trigger, need to be trialed and introduced. With the addition of some $650 million in extra funds, negotiated with the Australian Demo-
crats through the ANTS package, the government is devoting nearly $1 billion to climate change. These programs are all worth while, but government cannot be expected to go it alone on greenhouse. Market structures need to change so that investment in emissions reduction is recognised and rewarded.

Our biggest concerns are in the area of energy and transport. Between 1990 and 1998, electricity emissions—which are 37 per cent of our total nationally—increased by 24 per cent, and they increased by nearly seven per cent in the year between 1997 and 1998. They are predicted to reach 147 per cent of 1990 levels by 2010. Between 1990 and 1998, transport emissions increased by 11 per cent. Competition policy reform in energy has had a very negative greenhouse impact, making the most emissions intensive fuels—that is, brown and black coal—the most competitive. It also set up considerable barriers to entry for gas, cogeneration and renewable energy. A historic legacy of subsidies to fossil fuels and an outdated and inequitable transmission pricing regime are also working against our efforts to reduce greenhouse emissions. Progress in transport is hampered by a vast imbalance in funding for roads against rail and public transport and a tax system which is biased towards road and private motor vehicle use. We believe this has to change and have argued for a much greater commitment, at both state and Commonwealth levels, to public transport and cycling and to the upgrading of Australia’s urban and interstate rail infrastructure and services.

Of particular concern to the committee is the complacency developing in the government about our response to greenhouse. Decisions to introduce a greenhouse trigger into the EPBC Act appear to have been deferred indefinitely, as has a decision on emissions trading. The renewable energy legislation before us will make only a very small impact, much less than it potentially could have done. Against all the evidence coming from Australia’s greenhouse gas inventory, Senator Minchin argues that current policies will let us achieve our targets and that he will not support policies that affect our international competitiveness. This overstates the cost of acting, and ignores the cost of not acting, to reduce emissions. A sensitively designed and phased-in emissions trading system, which we recommend, will protect industries from a loss of competitiveness and will put us on a least cost path to meeting our Kyoto target. Deferring action now will cause us to face much higher costs in the future.

The committee sees great opportunities from taking action on greenhouse—an opportunity for new export markets in renewable energy technology and in greenhouse expertise, an opportunity to create economic incentives for reafforestation and revegetation and an opportunity to preserve important industries, such as tourism and agriculture, from the damaging impacts of climate change. We already have enormous low and negative cost opportunities in energy efficiency and by dramatically reducing our rate of land clearing. However, we continue to clear land at alarming rates and approve the construction of new coal fired power stations.

This report is wide ranging and contains more than 100 recommendations over many different policy areas. This derives from our convictions that greenhouse outcomes need to be considered in every relevant decision—from the mix of transport funds, competition policy, industry, forestry, agriculture, taxation, regional development and more. We need more than targeted programs; we need a genuine whole of government approach that stimulates market transformation. The report’s recommendations are detailed, achievable and forward thinking. If implemented, they will allow Australia to meet its Kyoto commitments at least cost and will help put this country on a path to genuinely sustainable development.

It was a long, complex inquiry, taking more than 12 months and involving travel to six cities around Australia and 13 days of evidence. I would like to thank my fellow committee members for attending those hearings as well as all of those people who made submissions to the inquiry and gave evidence to the public hearings. I would also like to thank very much the committee secretariat for the enormous effort that was put in to write this report and to support the
committee in its inquiry. I thank Andrea Griffiths, who picked up the reins from Roxane Le Guen, and Anthony Burke, who took on the lion’s share of the writing and delivered, I think, a very readable, relevant and coherent report from the many thousands of pages of transcript and submissions. As well, David Arnold, Patricia Burritt, Helen Grinbergs, Judy Lachele, Angela Mututu and Emma Jane Will gave substantial amounts of their time to this effort over the last 12 months. I would also like to acknowledge the work of Alex Gordon, from Senator Bolkus’s staff, who did a sterling job in assisting us at the end of the process, particularly in editing the work. It might have been a few more pages than have been presented, and I thank Alex for her efforts in that respect. I would also like to mention Susan Brown, who gave us some strategic advice. Susan Brown was a staffer of Senator Lees until she decided to take up looking after her children instead. I thank Susan for her contribution as well.

To conclude, Australia’s ancient continent is particularly vulnerable to climate change. We have a national interest in seeing the Kyoto protocol come into force and in seeing a concerted global effort to reduce greenhouse emissions. We must do our part, and in this there are challenges for Australia but also great opportunities. I seek leave to incorporate the rest of my remarks.

Leave granted.

The speech read as follows—

Australia faces a greenhouse constrained future, and we now have to choose which one. Will it be a future of unrestrained climate change which damages our industries, our infrastructure and our environment; or will it be one in which we export green technology to the world, in which the economy is both prosperous and sustainable, and our natural environment is enhanced through investments in reafforestation and biodiversity? Will it be a future we can proudly bequeath to our children, and to their children, so that we can honestly say to them, ‘We changed our lives so that yours could be better’.

I commend this report to the Senate.

(Time expired)

Senator TCHEN (Victoria) (4.13 p.m.)—I rise to endorse the comments of Senator Bolkus and Senator Allison about the efforts of the secretariat in assisting the Environment, Communications, IT and the Arts References Committee in preparing the report and conducting the inquiry. This inquiry has been wide ranging and extensive, and the efforts of the secretariat in particular have been very much appreciated. I also believe, on behalf of the government members of the committee, that the inquiry has made a valuable contribution to the public knowledge of the ongoing debate about global warming, and it is hopeful that the information and different views we have uncovered will lead to a better understanding of the phenomenon of global warming and climate change. However, notwithstanding the amount of material that we collected and the extensive differing views that were presented to the committee, it is disappointing that many of the recommendations and conclusions of the committee’s majority report made an illogical leap which appears to be totally divorced from the weight of the evidence presented to the committee. Such factual irrelevance is a serious shortcoming of the report that is presented today. We think this substantially detracts from the efforts that the committee put into the inquiry.

In our view, the scientific evidence brought before the committee has indicated that there is a very strong degree of certainty in the phenomenon of global warming. It is certain that this warming is due to human influence. It is also certain that if global action—and I stress the word ‘global’—is not taken to reduce the emission of greenhouse gases which have led to this warming phenomenon, there will be substantial changes in climate over the next century and perhaps beyond. The evidence brought before the committee inquiry was very clear that there is strong uncertainty in the manner in which the complex system that constitutes the living earth will react to this process of warming—in particular, how the biosphere, which contains the living part of the earth, will respond to the process of warming. For example, some of the more familiar ecosystems will no doubt change as they are likely to be adversely affected. However, new systems may be developed and other systems might prosper. We do not know at this stage how each of these systems will benefit or whether
they will continue to complement human habitation of this earth. So it is not a simple case that global warming will have a completely negative effect. There is no certainty that there will be a linear increase in temperature and a linear increase of the impacts of change.

Because of this uncertainty, I think the government has responded prudently and in a precautionary way, very much in keeping with the goals and objectives of the International Panel on Climate Change and also the Kyoto protocol. The precautionary principle has been quoted in many places and is also embedded in the Kyoto protocol. I think I should read the definition of ‘precautionary approach’ into the Hansard, because, no doubt, this matter will come up before this chamber again. The precautionary principle states:

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

That was principle No. 15 in the Rio Declaration on Environment and Development. I draw to the attention of the chamber the word ‘cost-effective’. In other words, the principle applies where there is no damage to the existing structure and the function of human society. The majority report unfortunately ignores not only that but also much of the government’s effort in meeting this challenge of global warming. The reality is that the outlined mechanism and danger posed to human society and the earth generally by global warming has been recognised as a major issue in informed political as well as scientific society for more than 20 years. This government, notwithstanding the political statements that Senator Bolkus made, has not sat back like previous governments during the last 20 years to wait for uncertainties to be resolved but has taken a risk management approach to position Australia to meet the challenge posed by this phenomenon. The Australian government in Kyoto has approached this problem by placing the Australian national interest, particularly in terms of international competitiveness and also our domestic socioeconomic wellbeing, on an equal footing with our international obligations. I draw to the attention of senators that that approach is not denigrated by the international community but recognised by the international community as a proper and appropriate approach to this issue, given Australia’s national circumstances.

Unfortunately, the committee’s report does not reflect the recognition of the effort on the part of the government. This very important opportunity that Australia has taken to take action and place ourselves at the forefront of the world’s response to threatening circumstances has not been recognised. The recommendations in the report urge Australia to rush headlong into inappropriate and untested responses to this looming international problem. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Senator Brown—I am certainly happy to agree to that because this is—

The ACTING DEPUTY PRESIDENT (Senator McKiernan)—I am sorry, Senator Brown, the time allocated for this debate has expired. Senator Tchen, by seeking leave to continue his remarks at a later time, keeps the report alive and it can be debated at a later time, probably on Thursday of this week.

Senator Brown—I thank you for that advice, Mr Acting Deputy President. On a point of order, I would like your advice as to when on Thursday specifically, under your direction, I will be able to speak on the matter of this global warming report, because I do not believe that is going to happen at all.

The ACTING DEPUTY PRESIDENT—in the hour allocated to committee reports.

Senator Brown—which is the hour allocated to the ALP.

The ACTING DEPUTY PRESIDENT—No, I do not think that is the case. If you refer to the Notice Paper for Thursday, you will see that there is an hour allocated for committee reports.

Senator Brown—I will do my best when the time arrives.
COPYRIGHT AMENDMENT (MORAL RIGHTS) BILL 2000

BROADCASTING SERVICES AMENDMENT BILL 2000

First Reading

Bills received from the House of Representatives.

Senator HEFFERNAN (New South Wales—Parliamentary Secretary to Cabinet) (4.25 p.m.)—I indicate to the Senate that those bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator HEFFERNAN (New South Wales—Parliamentary Secretary to Cabinet) (4.26 p.m.)—I table revised explanatory memoranda relating to the bills and move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in Hansard.

Leave granted.

The speeches read as follows—

COPYRIGHT AMENDMENT (MORAL RIGHTS) BILL 2000

This bill is yet another important landmark in the Government’s on-going program of copyright reform.

Recently, we have seen the passage of legislation to remove restrictions on the importation of legitimate overseas compact discs - a reform that has delivered greater choice and lower prices for Australian consumers.

We have also seen the passage of the Copyright Amendment (Computer Programs) Act 1999, which enables our software developers to compete on an equal footing with their counterparts overseas.

And most recently, we have seen the passage of the Copyright Amendment (Digital Agenda) Act 2000, which will update Australia’s copyright law to meet the challenges posed by digital technologies.

This bill will establish for the first time a comprehensive regime for the protection of the moral rights of Australian authors, artists and filmmakers.

The bill implements the Coalition’s commitment at the 1996 election - reiterated at the 1998 election - to develop legislation to ensure greater respect for the integrity of creative endeavour.

The bill incorporates provisions previously included in the Copyright Amendment Bill 1997.

The moral rights provisions were withdrawn from that bill in 1998 when it became apparent that there was a need for further consultation on two or three specific issues of concern to industry.

Aside from these issues, there was a favourable reaction to most areas of the original legislation, and the Government has retained those areas intact in this bill.

At the time the moral rights provisions were withdrawn, the Government gave an undertaking that they would be reintroduced after further consultations to resolve the disputed issues.

Consultations with stakeholders have resulted in a number of proposals that have been implemented in this bill.

Comprehensive protection of moral rights for authors and artists is something Australia’s creators have long been advocating.

Moral rights are also the subject of long-standing international obligations for Australia.

The Berne Convention for the Protection of Literary and Artistic Works is the main international convention on copyright.

Under the Convention, “moral rights” are:

- the right of an author or artist to be identified with his or her work - known as the right of attribution; and
- the right to object to alteration or other derogatory treatment of the work that would be prejudicial to the author or artist’s honour or reputation - known as the right of integrity.

The rights apply to literary, dramatic, musical and artistic works, and films, but not to sound recordings.

There has been increasing criticism that Australia’s implementation of its obligations under the Berne Convention is fragmentary and incomplete.

This bill will address those criticisms.

But this bill is not just about fulfilling international obligations.
More importantly, it is about acknowledging the great importance of respect for the integrity of creative endeavour.

At its most basic, this bill is a recognition of the importance to Australian culture of literary, artistic, musical and dramatic works, and of those who create them.

The Government recognises the concerns of users of copyright - such as broadcasters, advertising agencies, film-makers and newspaper publishers - that moral rights will unduly hamper their existing practices.

However, if a user of a work respects the rights of the creator, the user will not need the author’s permission in making use of that work.

Thus, if a user acknowledges, where reasonable, the authorship of the work, and, where reasonable, avoids treatment that is prejudicial to the reputation of the author, there can be no objection by the author or creator.

Turning to some of the key aspects of this bill that differ from the original legislation.

The Senate Committee that examined the original legislation recommended that the writers of scripts for films and television programs should be considered authors of the film or TV program alongside the authors designated by the original legislation, namely, the producer and the director.

The Government accepted that recommendation and the bill provides accordingly.

A related proposal coming out of the consultations asked for legal recognition of an agreement between the producer, director and screenwriter of a film, or some of them, on the joint exercise of their rights of integrity.

It was proposed that such an agreement should operate to prevent any one of the parties to the agreement from separately taking action to enforce that right.

The bill reflects the Government’s acceptance of this proposal and gives legal recognition to these co-authorship agreements.

While this mechanism is available to those outside the film industry, it is merely facilitative and is in no way mandatory.

As recognised by the Government when withdrawing the original legislation, the most controversial and divisive issue was whether it should be possible for authors, artists and film-makers to waive their moral rights.

Understandably, creators saw the provision for waiver in the original legislation as a means by which economically powerful users of their works could force them to agree to give up these new rights completely.

In response to these concerns, the concept of waiver has been dropped from this bill.

At the same time, the bill clarifies the provision that was in the original legislation for an author, artist or film-maker to consent to the doing of something that would otherwise infringe his or her moral rights.

In determining whether non-attribution of authorship of a work is an infringement of moral rights, a court will have to consider whether the omission was reasonable in the circumstances.

Reasonableness will depend on a number of relevant factors that must be taken into account, notably, the nature of the work, industry practice and whether the creator was an employee.

This bill has added to the original legislation by including as a factor any relevant voluntary industry code of practice.

Whether alteration of or dealing with a work infringes the right of integrity will also be subject to a similar test of reasonableness based on corresponding factors.

As under the original legislation, some specific actions have been expressly exempted from infringement of the right of integrity.

This bill clarifies one of those exceptions - that relating to changes in or the demolition of buildings.

The bill provides for the author or the person representing them to be given notice and granted access to the building before the building is changed or demolished.

A similar provision has been introduced in relation to the removal of moveable artistic works made for installation at the place where they are situated, being a place accessible to the public.

The bill includes provision for a wide range of remedies that courts can apply in redressing the injury caused by an infringement of moral rights.

This bill has added to the original legislation by including a requirement that, before granting an injunction, a court must consider whether to give the parties an opportunity to reach a settlement by negotiation or mediation.

Experience in other countries suggests - and the Government envisages - that enforcement of moral rights through the courts will be an exceptional occurrence.

We believe that the main impact of the new legislation will be to build upon existing good industry practice and, where necessary, to raise
awareness in an educative way of the need to respect the creativity of authors and artists.
Another issue that arose in consultations was the duration of the new moral rights.
Under the earlier legislation, the rights would have lasted for the duration of the copyright, that is, the life of the author of the work plus 50 years, or, in the case of a film, 50 years from publication.
Following Government amendments moved by the Attorney-General in the House of Representatives, this will continue to be the situation for literary, dramatic, musical and artistic works.
However, because of their different nature, the right of integrity of authorship in relation to films will only endure until the maker’s death.
This position has the agreement of the film and television industry.
A matter that preoccupied the Senate Committee, and came up in the later consultations, was the extent to which the new moral rights should apply to works and films already in existence.
Both the majority and the minority of the Senate Committee recommended that the new rights should not apply to existing films or to works by authors and artists who had died when the new rights became operative.
The agreement by parties in the film and television industry also proposed that the new rights only apply to films made after the rights come into force.
This has been reflected in the bill, as amended.
The right of integrity of authorship will apply to existing literary, dramatic, musical and artistic works, provided the author is alive at the time the bill comes into operation.
However, it will only apply in relation to films made after the commencement of the legislation.
Similarly, the right of attribution will apply in relation to films made after the commencement of the legislation and to existing works, but only in relation to attributable acts done after the commencement.
The right against false attribution will apply in relation to works and films made either before or after the commencement of the bill, but only in relation to acts of false attribution done after that commencement.
This bill is another initiative from a Government committed to reshaping copyright law for the 21st century and beyond.
The Government has addressed the main issues of controversy, and has worked hard to accommodate as far as possible the views conveyed to us.
The bill with these changes is, I believe, a balanced package of rights, which will represent a great advance in the recognition of, and respect for, the creativity of authors, artists and filmmakers.
It is a workable scheme that deserves the strong support of this Parliament.

BROADCASTING SERVICES AMENDMENT BILL 2000

The Broadcasting Services Amendment Bill 2000 seeks to establish a new broadcasting licence regime for international broadcasting services transmitted from Australia.
The bill will establish a new licensing category for international broadcasting services transmitted from Australia. The scheme is being introduced because there is currently no regime governing the content of international broadcasts from Australia. In certain circumstances, such broadcasts could be contrary to the national interest. The bill provides a means for the Minister for Foreign Affairs to determine whether a broadcast service is likely to be contrary to the national interest. In determining this, the Minister for Foreign Affairs will have regard in particular to the likely effect of the service on Australia’s international relations.
Under the new licensing scheme, all international shortwave radio services transmitted from Australia, and all international satellite radio and television broadcasting services originating in and transmitted from Australia, will be required to obtain an international broadcasting licence from the ABA. The ABA will refer applications for licences to the Minister for Foreign Affairs, together with a report about whether the proposed service complies with the international broadcasting guidelines to be developed by the ABA. The Minister for Foreign Affairs is then required to make an assessment of whether the proposed service would be contrary to Australia’s national interest.

Significant growth in international broadcasting is expected and Australia is likely to be a base for some services broadcasting to the region. This new regulatory regime will provide a licensing framework for international broadcasting services transmitted from Australia whilst safeguarding Australia’s national interest.
The Government has considered the recommendations made by the Senate Foreign Affairs, Defence and Trade Legislation Committee in its report on the bill. The bill now provides for the international broadcasting guidelines to be a disallowable instrument. The bill also provides that if a person makes a request to the Minister for Foreign Affairs for a statement of reasons in relation to a decision by the Minister to direct the ABA not to allocate a licence, or to suspend or cancel a licence, the Minister must either provide a statement to that person or prepare a statement about the decision and cause a copy to be laid before each House of the Parliament. Provision has also been made for nominated broadcaster declarations, to allow providers of transmission services to hold international broadcasting licences on behalf of the content providers of international broadcasting services.

Debate (on motion by Senator Denman) adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

AGED CARE AMENDMENT BILL 2000
Report of Community Affairs Legislation Committee

Senator McGauran (Victoria) (4.27 p.m.)—On behalf of Senator Knowles, I present the report of the Community Affairs Legislation Committee on the provisions of the Aged Care Amendment Bill 2000, together with the submissions presented to the committee.

Ordered that the report be printed.

NOTICES
Presentation

Senator Forshaw (New South Wales) (4.27 p.m.)—On behalf of Senator Bolkus, I seek leave to give a notice of motion.

The Acting Deputy President (Senator McKierman)—Is leave granted?

Senator Brown—Before giving leave, I want an explanation of the nature of that notice.

Senator Forshaw—I seek leave to give a short explanation.

Leave granted.

Senator Forshaw—It is to give notice on behalf of Senator Bolkus to move on Thursday that the native title right to negotiate alternative provisions regulations et cetera be disallowed.

Senator Ian Campbell (Western Australia—Manager of Government Business in the Senate) (4.28 p.m.)—by leave—There have been some very informal discussions on this issue just in recent moments. We are prepared at this short notice to give leave. The government is in a position where it would like to see this matter dealt with in the remaining days before we adjourn for the summer recess, so we are happy to grant leave for this to be moved, but on the basis that there is a clear undertaking on behalf of the Australian Labor Party that the disallowance will actually be dealt with prior to the adjournment for the summer recess. I think Senator Forshaw has indicated that the intention was to action it this Thursday. I am not exactly sure whether that is entirely within the programming guidelines, but we are seeking an undertaking to have it dealt with prior to the adjournment for the summer recess. We would like a clear undertaking on that. Perhaps it is not possible to give it without Senator Bolkus being here, but I can foreshadow that the government would grant leave for such a motion to be given notice of when that undertaking can be given. Perhaps you could seek it at the conclusion of the next bill.

Senator Forshaw (New South Wales) (4.30 p.m.)—by leave—Given what the parliamentary secretary has just said, I withdraw my application to seek leave at this time. I will look to do that later, subject to getting some instructions or advice from Senator Bolkus. I do point out that it could just as easily be moved tomorrow, on the basis that the motion was to have it dealt with on Thursday, in any event.

CHILD SUPPORT LEGISLATION AMENDMENT BILL (No. 2) 2000
In Committee

Consideration resumed from 6 November.

The bill.

Senator Chris Evans (Western Australia) (4.31 p.m.)—I move:

That the House of Representatives be requested to make the following amendment.
I wish to address my remarks to the motion and also to a few of the more general issues. If people are concerned that I am speaking for a lengthy period, I indicate that I will not be doing so on every amendment. I will cover some of the ground once rather than at each stage of the debate. This request seeks to reduce the current 50 per cent withdrawal rate that applies to maintenance income with a 30 per cent withdrawal rate. It is designed to compensate the majority of custodial parents who share care of a child for the loss of income that would result from the passing of schedule 1 of the Child Support Legislation Amendment Bill (No. 2) 2000.

I want to make it clear that our support for schedule 1 is conditional on this request being agreed to. We have done everything we can to give effect to the intention behind schedule 1 of the bill, which relates to shared care. In his speech in the second reading debate, my colleague in the other house Wayne Swan indicated that, while we have problems with the way the shared care measure has been framed, we are keen to support any proposal that recognises the costs borne by non-custodial parents who share care of their children at reasonable levels. That is why we put forward two alternatives in the House of Representatives that gave effect to the principle of shared care and why we have had continuing discussions with the Minister for Community Services, Mr Anthony, and his office in an attempt to find some common ground. Those discussions have been going on as late as today.

At this stage, our efforts to find a way to get a fair proposal up do not seem to have been successful. The government has been unwilling to move from its original proposal. So in this request we have put forward what we admit is, in our view, a second-best solution. The situation we find ourselves in, in trying to patch up what we think is a poorly put together proposal, is a result of the government’s failure to consult widely enough prior to the introduction of the legislation and to acknowledge the views of many groups who have a big interest in making the child support system work and be fairer. Had more consultation occurred, we would have found a better proposal that was more easily agreed in this chamber.

Last night, Senator Newman tried to shore up the government’s case by arguing that research had already been done by the Price committee in 1994 and that Labor had been tardy in implementing its recommendations. With respect, that was not right, and I want to spend a couple of minutes correcting the record. Firstly, it should be remembered that it was Labor who introduced the child support scheme in 1988 in order to address a number of issues, including the consequences of the family law legislation of 1976. It was also Labor who in 1994 undertook the first—and, to my knowledge, the only—open and comprehensive review of child support, under the guidance of the chairmanship of Roger Price. Of the 163 recommendations that arose from the Price review, recommendations 7 through to 115 were administrative rather than legislative measures. That is important because Senator Newman claimed last night that Labor had implemented none of the Price recommendations in government. She then came in to the chamber later on and corrected the record.

Senator Newman—I was still here. Be accurate. I corrected it the moment after I said it.

Senator CHRISS EVANS—If the minister will let me, I am trying to say that she did attempt to correct the record later but, even then, she said that Labor had implemented only the administrative measures when in fact they were the bulk of them. It created a misleading impression. It is also a fact that following the receipt of the report at the end of 1994 and before the election in early 1996—a period of only 12 months or so—some 50 or so of the Price recommendations
were acted upon. I would like to contrast that record of reform from 1988 to 1996 with the efforts of the current government. Prior to March 1996, the then opposition promised to examine and respond to the residual issues and recommendations of the Price report. Initially, no timetable was set and in 1997 the government convened a backbench committee of its own to examine and recommend reforms. That committee’s report was never made public, in contrast to the very public process the committee under Roger Price conducted in 1994. We have seen only some change since that time and I do not think anyone would describe it as revolutionary.

The government’s failure to release its claimed equivalent to the Price report does not allow us to get any idea about whether the issues of concern have changed since that initial report. That is a crucial point because a lot has happened since 1996 that has changed the environment in which we operate. Government changes to child care and the removal of social services have placed many families on low incomes in precarious circumstances. The introduction of the GST and shared care changes in relation to FBT affecting custodial parents are also, we believe, having a big impact. You have only to consider the latest NATSEM figure, which shows that the number of children growing up in poverty has increased by 100,000 since the government came in, to recognise that the landscape of 1994 has been altered considerably. It is a mistake to just cherry pick the Price committee recommendations, which were made in a different environment. It is not a substitute for considered research—research that should have been conducted before the shared care measure was ever legislated.

That is why we are here today arguing that, as a minimum requirement, the government not precipitate further child poverty with a reform that fails to acknowledge the income and the services that have been removed already. That is why we favour a contact payment approach as a means of recognising shared care and its ability to give relief without taking from others to do so. A contact approach represents a more balanced approach to the issue of shared care than this request because it takes account of recent history as well as giving a greater boost to poorer non-custodial parents. Nonetheless, if passed, this request will reduce the maintenance income test applying to custodial parents and therefore virtually eliminate any losers that would be created from the passing of schedule 1, the shared care measure of this bill.

Requests such as the one we are making become necessary because schedule 1 of the bill, while reducing the percentage of child support paid by non-custodial sharing between 10 and 30 per cent of the car of their children, seeks to do so off the backs of the custodial parents. As I said in my speech in the second reading debate, around 205,000 custodial parents stand to lose an average of $5 each week in income as a result of the shared care changes. Changing the maintenance income test will not only prevent financial loss to a great many families but also ensure that the bitterness and antagonism that would flow from passing of the shared care measure alone are limited.

The government will no doubt argue that the request is too costly. However, I would contend that the social cost of not supporting it is too high to ignore. A great many children risk being exposed to poverty or higher levels of poverty if nothing is done to balance the withdrawal of child support dollars that will occur as a result of the shared care measure. To put it another way, it is no good us passing a measure that ensures that a child is adequately cared for for 37 to 110 days per annum but neglects the circumstances that will exist for the child for the remaining higher proportion of the year.

I want to send on behalf of the Labor opposition an unambiguous message to people sharing care. We do not oppose the principle of shared care but we need to proceed with a fair mechanism to recognise the costs associated with it. The government has come forward—we think too hastily—with a proposal that does not meet the test of fairness. Therefore, more work needs to be done to find a way to make this a reality. I would like the government to take another look at our proposal for a contact payment as a way of ensuring non-custodial paying parents, par-
particularly those on lower incomes, are given greater assistance when they share care. Our proposal will give $5 a week per child to non-custodial parents providing between 10 and 20 per cent care and $10 a week per child to those providing between 20 per cent and 30 per cent care. It could be paid through the family tax benefit structure.

A contact payment over and above the money already available to both custodial and non-custodial parents would recognise the cost incurred by non-custodial parents without taking more from the custodials. It would deliver proportionally greater benefits to low income payers of child support exercising care—who, after all, are the ones who need it most. In contrast, under the government's approach a person earning $25,000 per annum with one child and providing between 10 and 20 per cent care will get around $5 relief to support that contact, and a person in the same circumstances but earning three times the income will get five times as much CSA relief—that is, $24.82. In short, the measure is not targeted to deliver assistance to non-custodial parents on the lowest incomes—arguably, those in greatest need.

I am not sure if there will be support for this proposition. I understand the Democrats have some reservations, and the government indicated in discussions that it is unable to support the measure. I hope the government can come some way towards supporting this measure. We do think it is important that it not become a zero sum game, that there are not losers at the expense of moving to recognising shared care. We think that defeats the whole intent of such an approach. The Labor opposition is willing to continue to discuss ways in which we can make the government's proposition fairer. But, as I say, we draw the line at taking resources away from custodial parents of young children and risking further reducing their standard of living in order to fix the problem that the government and I think everyone in the Senate recognise. This is our attempt to try to find a way through. I hope it earns the support of the Senate. If not, we will continue trying to find a way through to recognise the needs that I think the government correctly identified but in a way that we think meets the test of fairness for all parties involved.

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (4.41 p.m.)—I thank Senator Evans for his contribution just now. Last night we did spend quite a lot of time talking about research, and I think he, perhaps accidentally, today made a claim that I had talked about research of the Price committee. I did say that one of the biggest research efforts possible was done in fact during the course of the Price committee, because so many people used the free telephone line to the committee. They were inundated with calls which cost many thousands of dollars of the committee's resources, as I recall. If you like, that can be called a research exercise. They also had the largest number of written submission that any committee has ever received.

In addition, I do have with me a list of research provided to me by the department which is relevant to this discussion of what research was used by the Child Support Agency and the department in the bringing forward of further responses to the Price committee's recommendations. I seek leave to have that list of research references included in Hansard.

Leave granted.

The list read as follows—

REFERENCES CITED


It would be useful to just very quickly address another issue that Senator Evans addressed when he started speaking. This is an update report on the status of the recommendations which has been provided to me by my department. The joint select committee report—known as the Price report—was tabled in December 1994. The former government tabled an interim response in March 1995 which addressed 53 of the 163 recommendations. These are mainly concerned with the Child Support Agency administration of the scheme, which is what I said last night. A summary of the outcomes of those 53 responses is: 46 agreed or partly agreed, two disagreed, five disagreed but an alternative solution provided.

The coalition government came into power in 1996 and in November 1997 tabled its response and introduced legislative amendments that commenced in 1999 and earlier this year. At least two batches, in my recollection, of legislative changes came through the Senate. They were the more difficult issues to contemplate, but one would have expected that they would have had an easy passage through the Senate because it had been a bipartisan report that Mr Price chaired. The current bill now addresses further measures. A summary of the outcomes of the recommendations addressed by this government is: agreed or partly agreed, 68; disagreed, 35; and disagreed but alternative solutions provided, 110. That is the state of play, which I have given to the Senate. It comes from advice I have received from the department.

In addressing the issue of the contact measure, which was the first main measure Senator Evans raised, I remind the Senate that the joint select committee noted that it was unclear how the formula accounted for the cost of contact of less than 30 per cent and expressed concern that that current threshold may be creating a cliff effect. This was something I said to the Senate last night. The joint select committee suggested that this effect could be ameliorated by progressively increasing the allowance for contact
over a greater range, and that is what this contact measure will achieve.

This does not change the approach taken in the way child support is calculated. Under the current child support formula, liability is calculated based on the amount of contact a nonresident has with their children, but that formula recognises the cost of contact only where nonresident parents exercise contact for between 30 and 40 per cent of the nights of the year. This measure will provide a specific and transparent allowance for the costs of contact where parents care for their children between 10 and 30 per cent of the time. The measure will also distinguish between the liabilities of parents exercising little or no contact and those exercising regular and ongoing contact.

I will briefly mention the issue of child poverty, because Senator Evans just referred to that again. The NATSEM research he drew attention to shows that where child support is paid children are less likely to be in poverty. I endorsed the introduction of the scheme, having always believed that both parents should support their children—our side of politics supported the Labor government when they introduced the measures. That scheme has directly contributed to reducing child poverty, and everybody must be the happier for that. We believe that the package before us now will improve the Child Support Scheme in a balanced way, resulting in a fairer scheme.

Research shows that where parents perceive their child support liabilities as being fair they are much more likely to meet their obligations. As a result of this package more parents will be more willing to meet their child support obligations, resulting in even further reductions in child poverty. Of course, most importantly of all, more children will have more time with both their parents, and I think everybody here would believe that that is the desirable outcome. I also have in front of me another piece of research that Senator Evans might be interested to follow up, because he clearly was not aware that it was available. Released in 1999, also by NATSEM, it is policy research paper No. 3 on estimates of the costs of children in Australian families in 1993-94. I draw that to the Senate’s attention as well.

Senator Chris Evans—I referred to it in my speech in the second reading debate.

Senator Newman—No, you referred to another one.

Senator Woodley (Queensland) (4.48 p.m.)—This debate illustrates the difficulty of trying to get this whole area of policy and legislation right, and it is a most difficult one. I should indicate that I have an interest in the legislation in that my daughter is a noncustodial parent, but I guess each one of us probably has some similar investment in this because it is the sort of legislation that affects almost everybody. I want to commend the government on trying to correct a problem in the formula at the moment concerned with the costs borne by the payer when they have a percentage of contact which is beyond the very minimal. I think the government has tried to do something about that but, as I said in my speech in the second reading debate, the Democrats are not convinced that we have yet got it right.

We are very much worried about the nexus which is becoming stronger between the issues of contact and child support and we believe, along with the Labor Party, that there is a real policy problem there—that when you tie the payment of child support to hours of contact that is a recipe for disaster. I hear what the minister is saying—that, on the positive side of that, there is also an incentive there—but I am convinced at this stage that the disincentive is stronger than the incentive. For that reason the Democrats will not support the original proposition of the government. I will not go into all the other reasons for this which I gave in my speech in the second reading debate.

With regard to the Labor Party’s amendment, we certainly agree that this is making the issue fairer. The other problem with the government’s proposition is that, in trying to help the payer, the money going to help the payer is indirectly coming from the payee. In other words, the resident parent loses. It is certainly made fairer for the payer, the nonresident parent, but in the process the resident parent will lose a certain amount of in-
come. I explained in my speech in the second reading debate that this is still a problem for the Democrats. We must continue to struggle with this. I was attracted not so much by the amendment which the Labor Party moved—because I believe that still has problems—but by the original proposition that you were explaining, Senator Evans. I think that had a large degree of attraction for the Democrats, and maybe that is something we could look at in the future. I indicate now that we are reluctantly unable to support the Labor Party amendment and we also will not support the original proposition.

Senator Newman (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (4.52 p.m.)—I would like to add to the comments I made earlier about this issue. The contact measure is in fact supported by a variety of Australian and international research which indicates that contact with both parents, payment of child support and the wellbeing of children post-separation are all positively correlated, that parents who pay child support are most likely to visit and that both are of benefit to children. It indicates that possible outcomes for children and for parents are strongest where the parents maintain a positive, ongoing relationship following separation and where the nonresident parent continues to play an effective parenting role. It also indicates that the perceived fairness of child support obligations and contact orders influences the likelihood that payers will meet their liabilities and be involved in the lives of their children. That is a variety of Australian and international research which, I am advised, indicates those outcomes. In addition, there is Australian research by Murray Woods and Associates which shows that nonresident parents face substantial costs in order to maintain contact with their children. I do not think any of us would need that to be emphasised; we already have a pretty good understanding of that.

I want to point out what is wrong with the ALP’s contact payment suggestion. If the government paid nonresident parents a contact payment, for the first time the government would be providing a greater amount of financial assistance for children in separated families than for children in intact families. I cannot imagine that Senator Woodley would be encouraging us to go down that route. If we are talking about the behavioural implications of these various measures, I would be concerned that that would provide an effective incentive for some parents to separate. Would it not be better to use the $80 million a year that it would cost to help families stay together? As you know, the government has been putting in increased resources since we came into government to try to prevent family break-up and help them stay together. Eighty million dollars a year would be much better spent in that area, in my view. In addition, some nonresident parents with low incomes would receive a greater benefit from having a lower level of contact than other nonresident parents in similar circumstances who have more contact. Nonresident parents would also receive a greater proportion of total government payments—that is, family tax benefit plus contact payments—for their children than their degree of care represents, while resident parents would receive a lesser share. For example, a nonresident parent earning $25,000 a year with contact of 25 per cent would receive 38 per cent of the total assistance for the child, while a resident parent with 75 per cent of care would receive only 62 per cent of the assistance.

I cannot believe that Senator Evans would think that that is a wise way to go. It is inequitable as well as being an expensive way of encouraging more families to separate. I urge a rethink both by the ALP and the Democrats. The government’s route is, I think, a fair one. It is also very much along the lines recommended by the Joint Select Committee on Family Law, chaired by Labor’s Mr Roger Price, in 1994. We are all trying to work through his recommendations.

Senator Harris (Queensland) (4.56 p.m.)—I rise to indicate that my first inclination is to not support Labor’s amendment. To clarify my position, I seek a little bit of clarification from the minister. Labor’s amendment attempts to reduce child support from the existing 50 per cent to 30 per cent. If I understand the government’s intention, once a payee receives $31,699 in income, any
child support payments paid above that will be assessed as being 100 per cent taxable income. I seek some guidance from the minister. I hope she can clarify that situation for me.

Senator Newman (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (4.57 p.m.)—Senator Harris is, I think, ahead of himself: we are still on the contact payment. There already is provision in the legislation for parents who have 30 per cent contact with their children. This brings that entitlement to people who have contact with their children of a lesser amount. You are covering the maintenance income test, I think, which is a later amendment.

The Temporary Chairman (Senator McKiernan)—The question is that the request moved by Senator Evans be agreed to.

Question resolved in the negative.

The Temporary Chairman—We now move to the next item on sheet 2001. The question now is that schedule 1 stand as printed.

Senator Woodley (Queensland) (4.58 p.m.)—The Democrats oppose schedule 1, the reduction in child support liability.

Senator Chris Evans (Western Australia) (4.59 p.m.)—I indicate—as I indicated in my previous contributions—that, on the basis of our propositions for positive changes to the bill being defeated, we will not be supporting schedule 1; we will be supporting the Democrat proposition to oppose that shared care measure. Our bottom line has been all through this that we were happy to try to find a way through, provided it was not at the cost of custodial parents. We have a concern that the measure will hurt custodial parents. As I said in my speech at the second reading stage, robbing Petra to pay Paul is not a way forward in building support for the child support system, and so we will be supporting the Democrat motion.

The Temporary Chairman—The question is that schedule 1 stand as printed.

Question resolved in the negative.
think the government’s argument for giving this break to high income earners is warranted, so we are inclined to oppose that schedule.

Senator WOODLEY (Queensland) (5.03 p.m.)—I indicate that the opposition to this particular schedule is to do with the reduction of the cap. I will not hold up the Senate by repeating Senator Evans’s words. The Democrats will oppose schedule 2.

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (5.03 p.m.)—I think it is a pity that the opposition parties are not supporting this. I can understand that there might be a measure of class issues or something such as that in it, but once again it is one of the recommendations in Mr Price’s bipartisan joint select committee report. It is recommendation 121 that the cap be lowered to twice average weekly earnings. That is exactly what this measure will achieve. I find it strange that Senator Evans is criticising this government for not having endorsed them all straightaway when of course they did not endorse them very quickly at all.

Senator Chris Evans—I don’t think I said that.

Senator NEWMAN—You didn’t. You had the report in 1994.

Senator Chris Evans—I wasn’t saying that, though.

Senator NEWMAN—No, last night you were saying something to that effect.

Senator Chris Evans interjecting—

Senator NEWMAN—I am sorry if I have misquoted you, but the fact remains that we have simply been working our way through what sometimes are quite difficult issues politically, as you will understand. I think the government should be given credit for having the guts to try and address some of these issues that have not only bedevilled electorates, members’ and senators’ offices, but, much more importantly, bedevilled the lives of people caught up in the child support system. That is not because there was anything inherently wrong in the child support system, but any new system, and especially one of this complexity where people’s emotions are caught up with the break-up of their family, will inevitably cause pain and people will have emotional responses to changes such as the ones introduced by the Hawke government which were evaluated and assessed with recommendations being brought forward by the Price committee in 1994.

We have worked solidly to try to gain community support for making the system fairer, and that is what we think is happening with this one. It is not a huge number of people who will benefit by it, but we have stuck to the recommendation of the joint select committee to treat people more fairly if they are being currently assessed at a much higher income. The important thing to know is that assistance will be given to children, under what we are proposing, which is more than what most children are receiving. When they are from families with higher incomes, we want to ensure that they are not being deprived of the sort of care and money that would be spent on them were they still to be living in an intact family. I think we should remember that when we are trying to remake people’s lives. It is important to know how children would have been funded, if you like, by their parents when the family was intact compared with when it separated.

Admittedly this measure is for people who are on higher incomes than most other people in the community, although they are still not rich people; they are people who have worked hard, often, to achieve greater salaries than some others. I think that the Price committee’s report was fair. It is easy to say that you will knock it out because these people can afford it but, even under the changes proposed here with this cap, they will still be providing more money for their children than most well-to-do homes spend on their children. That response is a bit incoherent, but I do think perhaps this has been looked at very imperfectly by the opposition parties. It is one more measure in this effort to try to make the system fairer for whoever comes into the system.

Senator HARRIS (Queensland) (5.08 p.m.)—In rising to speak against the opposition’s and the Democrats’ opposition to schedule 2, let me say that I have some concerns about the government’s process in
what they are setting out to do. The reason I believe the government have missed the target—and I say that in the nicest of ways—is that, in supporting the lowering of the cap, we are still not really addressing the issue of the most needy. I have seen figures where a substantial amount of people who are involved in child support have incomes less than $25,000, and they are the people who are really in trouble.

I support the government’s intention with schedule 2 and would like to share with the chamber some real situations from a Central Queensland mining area. I will not say that this happens frequently, but there are several cases where women have targeted men who are working in the mines in those areas purely because of their high income. I am aware of one situation where one lady—and I use that term reservedly—has had five children to five separate gentleman, and it is purely for the purpose of accessing the child support from those gentleman on that maximum amount of income. That is absolutely despicable.

I support the government’s intention in lowering the cap but reiterate that I believe it is not really targeted to support the majority of the people who are most needy. The opposition’s and the Democrats’ opposition to the schedule will remove the lowering of that cap from the government’s bill. In lowering the cap, the government has been responsible in setting it at 2½ times the yearly equivalent. I indicate to the chamber that I will not be supporting the opposition to the schedule.

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (5.11 p.m.)—Can I just add one piece of advice I have here, which perhaps explains this issue better than I could before. The reduction in the cap is supported by the NATSEM research on the costs of children, which indicates that the Child Support Scheme currently requires payers on incomes of over around $65,000 to pay more than the measured gross costs of their children. Commonsense says that that should change, and that is just what the government are trying to do. It is what was recommended by the joint select committee of the parliament in 1994. We are working our way through those recommendations. We are treating this no differently from any other recommendation. We think it is wrong that people should be required to pay more than the measured gross costs of their children.

The TEMPORARY CHAIRMAN (Senator Calvert)—The question is that schedule 2 stand as printed.

Question resolved in the negative.

Senator WOODLEY (Queensland) (5.13 p.m.)—I move Democrat amendment No. 2, which is identical to opposition amendment No. 1:

(2) Clause 2, page 2 (line 4), omit “Schedules 2 and 3 commence”, substitute “Schedule 3 commences”.

This amendment omits some words and substitutes other words, which enables us to tidy up schedule 2, which we have just voted on.

Amendment agreed to.

Senator WOODLEY (Queensland) (5.14 p.m.)—I withdraw Democrat amendment No. 5. We listened carefully to what the minister said and, apparently, she was right. I am not saying that we were wrong, but we certainly did not consider all the implications of this amendment and it is very dangerous to move amendments that may have unintended consequences. Could I ask the minister to simply confirm that payers and payees will receive equal treatment in respect of stepchildren in terms of the legislation?

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (5.14 p.m.)—I am happy to confirm that.

Senator HARRIS (Queensland) (5.15 p.m.)—One Nation opposes schedule 5, items 30 and 57 in the following terms:

(1) Schedule 5, item 30, page 24 (line 1) to page 25 (line 30), TO BE OPPOSED.

(2) Schedule 5, item 57, page 28 (line 21) to page 29 (line 34), TO BE OPPOSED.
The purpose of this is to restrict the powers of the registrar. It relates to proposed section 150B of the bill on the power of the registrar to request tax file numbers. If the government’s bill proceeds in its existing form, it is the government’s intention to move the position of the registrar from the Commissioner of Taxation to Family and Community Services. We will have a situation where a department separate from the Taxation Office will be able to access tax file numbers and other information that the registrar, who is no longer part of the Taxation Office, requests. I believe it would be acceptable if the registrar were restricted to receiving only a disclosure of the person’s taxable income. But the way the motion is drafted, it relates to proposed section 150D of the bill, which says:

The Registrar may require the Commissioner to provide the Registrar with information about people...

So it is not just restricted to that person’s net taxable income. I believe this is possibly commencing, if not working towards, the data or details that a person has submitted in their tax return actually being made available to a department—someone other than the Taxation Commissioner. I commend the opposition of schedule 5 to the Senate.

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (5.19 p.m.)—The measure will make changes in child support, taxation and social security legislation to reflect the fact that the child support function has moved from the Treasury portfolio to the Family and Community Services portfolio. In particular, the Child Support Registrar will no longer be the Commissioner of Taxation, but the close links between child support and taxation functions will be maintained so that the child support assessment, collection and enforcement activities continue undisturbed. The Privacy Commissioner has examined and endorsed the amendments.

The TEMPORARY CHAIRMAN (Senator Calvert)—The question is that schedule 5, items 30 and 57 stand as printed.

Question resolved in the affirmative.
and who may be in arrears in their child support payments.

We must also take account of another measure in this part of the bill. The effect is impacted by the Child Support Agency’s having the ability, through the registrar, to deem that a person’s income is above its real level. We could have the ridiculous situation whereby a person’s child support requirements were assessed as if not above their income then very close to it. This has occurred in North Queensland, and I raised this issue in earlier debates on other bills.

I say very clearly to the chamber that I do not support any person not meeting their child support requirements. But when the department is able, through the registrar, to deem the amount of people’s incomes, I have enormous concerns. Those concerns are reflected in the fact that departure prohibition orders may result from the department’s having deemed that someone’s income is above its actual level. Although I believe it is a step in the right direction that the taxation commissioner will no longer fill the role of registrar, I remain concerned about the powers of the registrar. The purpose of my amendment is to oppose the schedule, as printed, in its entirety.

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (5.27 p.m.)—I am terribly disappointed with Senator Harris. I never imagined that he would speak in this place in support of parents who are not prepared to feed their kids. I find that unbelievable. Senator Harris has often expressed sentiments with which I have agreed, but I cannot believe that he would endorse people leaving this country—not in huge numbers but enough to be of concern—owing money to their kids. That is what we are talking about. Such people are persistently defaulting on their responsibilities under the child support act and are not abiding by the law. That is the legalese, but the end result is that they are not putting food in their kids’ mouths. I cannot believe Senator Harris would endorse that practice—yet his speech effectively does just that.

I urge Senator Harris to think about this matter more carefully. This measure will set up a system of departure prohibition orders so that in certain child support cases—only in certain cases—when a payer has persistently failed to meet his or her child support commitments, that payer may be prevented from leaving Australia without either discharging all debts or making satisfactory arrangements to discharge them. The system will mirror closely the existing departure prohibition order system that is in place under the Tax Administration Act 1953. That system is aimed at people who do not do the right thing by the tax system, but a much more serious matter, in my view, is those people who are not doing the right thing by their kids.

I understand that between 2,000 and 3,000 cases are currently in the system. Those payers—I will call them that although they are clearly not payers—have left their kids without support by jumping ship and leaving the country. Senator Harris tried to give examples of people who leave Australia to find work. They should stay here and look after their kids. They should share the care—the government is very keen on encouraging parents to do that—and share in finding the money to feed their kids. Preferably, they should not break up with the other parent and should give their children the chance of having two parents living with them and loving them.

But if parents have to break up, they must both meet their responsibilities to their children. This departure prohibition order provision simply ensures that we catch up with and prevent from leaving the country those who wilfully and persistently fail to look after their children according to the law. I do not think too many people in this country would believe that was wrong, so I am disappointed and surprised. I cannot imagine anybody endorsing that sort of behaviour. There is also a right of appeal to the Federal Court, which Senator Harris asked about.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—The question is that schedule 6, part 1, stand as printed.

Question resolved in the affirmative.
Senator CHRIS EVANS (Western Australia) (5.30 p.m.)—We oppose schedule 8 of the bill, which I think the Democrats and the One Nation Party have also indicated it is their intention to do. This is the issue to do with limiting the supporting documents provided to another party during the change of assessment process. This is an issue that received a lot of interest at the inquiry, which I sat on, into the bill. I do not think the opposition’s measure should be taken as a total rejection of the government’s stated aim but rather of the method—and I think there have been some discussions today to try to find a way through this particular problem. The government claims to be acting to reduce disputation arising from the unnecessary provision of private documents to another party during a review of a child support assessment. Clearly there are good reasons to allow some material upon which a person intends to rely not to be forwarded on. Where an individual has been subjected to violence, of course, is the clearest case.

However, the government is proposing something broader here. Rather than devising a way of allowing people to nominate documents and reasons for withholding material and then asking the agency to make a judgment, this measure overturns the general principle of disclosure. We heard evidence from the Law Council and the National Network of Women’s Legal Services, among others, of their concerns about the consequences of such a move for ensuring natural justice is afforded under the Child Support Scheme. I must say that my first reaction was to wholeheartedly endorse their concerns about the denial of natural justice and the provision of transparency in exchange of information. But I do concede that knowledge is power and that information can also be used in some cases to try and inflict harm or to cause difficulties for parties in what are sometimes very fraught and difficult circumstances.

We would prefer to see a system that is limited to protecting people in cases where there is need but preserves disclosure where there is no risk to an individual, or some other way of finding our way through without, we think, closing off the basic principle of people’s right to be made aware of information that is being used in a case in which they are involved. As I say, we have had discussions with the government, and we have not been able to resolve that prior to this debate coming on. I suspect that there is an element of administrative convenience in this, in terms of the CSA and its needs in terms of documentation and administrative workloads. I think a full and frank discussion about that may assist us to work our way through this issue.

But, as I say, our first response—and my first response as an individual—was to support the concerns of the legal fraternity about the need for full disclosure and natural justice. As I say, I am not without some acknowledgment of the difficulties that might cause in terms of very nasty and acrimonious family break-ups, and of how information can be misused. I am aware of those concerns. But we think this is one of those areas where more work needs to be done to find a way through balancing those two concerns. We would be very reluctant to support the government’s proposition at this stage, because we think it is too broad and really does wipe out that sort of general principle of disclosure and access to documents and the question of natural justice for both parties. So we are not prepared to support the government’s proposition at this stage. As I think has been indicated by Mr Swan to the minister, Mr Anthony, we are not unaware of the issues involved and we are prepared to try to find other ways through that particular issue, but we do not feel we are at that stage at the moment. Certainly, on the current proposition, we are not prepared to support it.

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (5.35 p.m.)—I thank Senator Evans for his remarks. But I think one of the things that might change senators’ minds would be if they each had a copy of this, which I guess most senators have never seen. It is the application for changing your child support assessment in special circumstances. It is, in fact, what we are talking about. It is the forms that people have to fill
in for a change. Looking at them, you will realise that on all of these blue pages—in other words, the pages on the right-hand side—details are to be listed of: what you are spending or have spent; what your debts and assets are; descriptions of the costs for particular children—if there are special needs, for example; gross salary and wages, less tax deducted and net pay; if you get a payment from the government, the type of pension or government allowance; if you will receive a lump sum payment this financial year, provide details; if you have or will receive income from a business, including self-employment, partnership, company or trust this financial year, provide details; if you have or will receive income from rent or board in this financial year, provide details—and it goes on. There is a considerable amount of information to be listed here. There are your expense details, and they are broken up into a budgetary form; your asset and debt details; if you have bank accounts, provide details; financial institution, source of funds, balance; if you own a car, provide details: make, model and year, purchase date.

Senator Chris Evans—Minister, half the senators have filled them out.

Senator NEWMAN—I don’t believe that. I hope not. Also included in the form is change to assessment. The form goes into great detail, and it is all available and provided to the other parent. What is not provided is a medical certificate that might explain why there are particularly heavy medical expenses, and that may be because they do not want the other party to know there is a medical issue involved. If we started to think about it and work through it, we would come up with a whole lot of private matters that may affect expenditure but do not have to be documented for the other party to prove the case, because it is the actual expenditure or the actual income we want to know about. That does not mean that the supporting evidence does not go to the Child Support Agency, but the irony of all this is that people who provide no supporting documents simply have all these blue pages in this document going to the other party. There is no obligation to provide the range of supporting documents that can be provided. Consequently, if somebody chooses just to fill in the forms, the forms will go as they are for the information of the other parent; but currently under the law, if one person is trying to be meticulously careful and provide all the information so the Child Support Agency can see everything, then the agency is obliged to send all those private supporting documents to the other party, the other parent. I personally do not think that is fair. It really does mean that big brother is, with legislative authority, able to intrude on one party’s privacy.

Remember that this form applies to both parties. Both parties have to fill in this form, and both parties have to have their private supporting documents supplied to the other party if they send them into the agency with this form. If the agency sees those documents, makes sure the form has been completed properly and then, as it has to under the law, provides a copy of that form to the other party, surely commonsense would say that is fair to all parties. It applies both ways. I would urge all parties in the chamber to rethink this issue. Once you have seen this form, I think you will be convinced, beyond anything I could say to you, that the proposal is fair. This legislation undoubtedly will come back to the chamber, and I urge you in the meantime to look at what is provided to the agency and what is currently provided to the other party and see whether you still think the supporting documents must go to the other party.

Senator WOODLEY (Queensland) (5.40 p.m.)—Thank you, Minister, for that explanation and thank you also for the advice from your department, which in this regard has been very helpful. I think we are coming closer together on this issue, as Senator Evans has indicated, but we still do have some problems. I do not know that we are the only ones you need to convince. Part of the problem was that the legal fraternity went into orbit on this issue, and we must take their advice as well as yours. I think you need to convince them as well about the form, because that is certainly where we take some of our advice from. We are trying to balance this and help you as well as the people affected. We have seen the form and one of the
complaints is its length, which is another issue we will not get into today. I guess the whole question still remains, and we are looking at two principles here and trying to come down on one side or the other. We still have concerns that there is no doubt that supporting documents are what is really required when there is dispute in law. I have been involved in enough court cases—usually as a witness rather than a defendant—to know that supporting documents are very important. So we can go away and look at this, but at this time the Democrats are not prepared to support you but will continue to listen.

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (5.42 p.m.)—I thank Senator Woodley for his response. I should have mentioned these two points which I think should also be taken on board by the Democrats and the ALP while they consider their future position on this. I am advised that the measure is strongly supported by evaluation and by research, and that includes a review that was conducted by the Child Support Agency to develop a range of options to improve the transparency and accountability of the process. That report was commissioned by the Child Support Task Force and it was released in April 1999. If you have not seen it, Senator, I suggest that might be useful for you. This measure that we have in front of us right now was a recommendation of that evaluation.

In addition—and, to me, this is much more significant than the Law Society’s views—there is client research, specifically with parents who had been involved in the process to depart from the formula assessment. I do not think you can get much better, in such a fraught area, than research into what your client base is saying about various aspects of the system. That research was undertaken in 1998 and it was repeated again this year. The research clearly shows that the exchange of information is the main concern for clients now due to concerns about the possible misuse of that information by one party. That is why I would urge you all to reconsider your position by the time this legislation comes back to this chamber.

Senator HARRIS (Queensland) (5.44 p.m.)—I have listened to the minister’s answers and also to briefings from her department. I still have concerns, and they go back to discussions that I have had predominantly—I will clearly admit—with non-custodial or payer parents who have experienced extreme frustration and problems even with the system as it currently exists in that they have not been able to access information that has been put up against them in the assessment processes. This is where the problem lies. If a person is being assessed on an issue and does not have access to that information, they have no right of redress because you cannot argue against something that you are not informed of. From a clear sense of balance, it is necessary that, if someone is using a document in argument against you, you should have access to that information so that you can refute it if it is not correct.

The minister’s staff and the department’s staff were good enough to speak at length about this, and there are issues of concern. They raised the issue of where one of the people involved may have cancer or some very personal information. I believe that even at this point in time the assessors, through the CSA, have the ability to determine on sensitive issues like that. Another issue is telephone numbers. You may not wish the other party to have access to know who you have been calling. There are processes in which they can be deleted from the documents. I believe there is middle ground on this and, as Senator Woodley and the opposition have indicated, it will need to be looked at. But I think it is totally unjust to be assessed and have no right of redress in that you cannot address something that you are not aware of. We will be supporting the motion to oppose schedule 8.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—The question is that schedule 8 stand as printed.

Question resolved in the negative.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.
FAMILY LAW AMENDMENT BILL 2000

Second Reading

Debate resumed from 3 October, on motion by Senator Patterson:

That this bill be now read a second time.

Senator BOLKUS (South Australia) (5.51 p.m.)—I rise to speak on the Family Law Amendment Bill 2000. The bill is intended to provide for greater financial equity and certainty after relationship breakdown by amending the Family Law Act 1975. The bill makes a number of amendments to the Family Law Act. It amends the act to provide for a scheme for both court referred and private arbitration for the resolution of property disputes and to provide for confinement of reviews of arbitral awards for questions of law. It amends the scheme of the enforcement of parenting orders by introducing a three-tiered approach, consistent with the report of the Family Law Council in June 1998, by providing for preventative measures to improve communication between separated parents and educating parents about their respective responsibilities in relation to their children. It provides for remedial measures to enable the parents to resolve issues of conflict about parenting and provides punitive measures to ensure that, as a last resort, a parent can be punished for deliberate disregard of a court order.

The bill also makes provision for binding financial arrangements dealing with all or any of the parties’ properties to be made before or during marriage or on marriage breakdown, setting out how such property is to be divided. The bill also makes a large number of other miscellaneous amendments to the act to assist the orderly functioning of the courts, to facilitate transfers of proceedings between the courts, to make minor changes regarding child maintenance orders, to ensure that the location and recovery provisions of the act apply to international child abduction cases, to limit the application of the separate representative provisions in international child abduction cases and, finally, to provide the court with a broader range of powers to make rules of court for enforcing orders about property or money.

The bill was referred to the Senate Legal and Constitutional Legislation Committee for inquiry. That committee reported in December 1999. While the committee concluded that the bill was ‘basically wise legislation’, it made a number of suggestions for amendments to the bill. I would now like to address the recommendations of the committee’s report and the government’s response to each. In many areas, the opposition is pleased that the government has given proper consideration to the recommendations of the committee. However, there are two areas in which the government has not, we believe, got it right.

The first area is in relation to enforcement of parenting orders. The committee identified that a matter of concern was that the bill should clearly allow the court more discretion as to whether to punish a person for a first breach without reasonable excuse after going through, or not being required to participate in, the parenting program stage. The bill requires judges to impose a mandatory sanction on a person who twice fails to comply with a parenting order without reasonable excuse—that is, no matter how trivial the breach may be. In response, the government has indicated that it now believes that the bill should no longer require judges to impose a sanction for a breach of a stage 3 order. As a result, the government has proposed amendments to section 70NJ to give the court a capacity, where the circumstances warrant it, to order a party who has failed to comply with a parenting order without reasonable excuse—that is, no matter how trivial the breach may be. In response, the government has indicated that it now believes that the bill should no longer require judges to impose a sanction for a breach of a stage 3 order. As a result, the government has proposed amendments to section 70NJ to give the court a capacity, where the circumstances warrant it, to order a party who has failed to comply with a parenting order to attend a further post-separation parenting program, instead of in these circumstances imposing a punitive sanction. It is a welcome concession by the A-G. As originally drafted, the bill would have inappropriately bound the hands of judges who would be called upon to make judgments about breaches of parenting orders. These are amendments that the opposition supported in the House.

The second area is in relation to the amendments going to the enforcement of court orders other than parenting orders. They were amendments that were proposed...
by the committee. While the committee did not give attention to the issue of the enforcement of court orders generally, the bill contains provisions which make it mandatory for a court to impose a penalty on a person who once fails to comply with a court order without reasonable excuse—again, no matter how trivial the breach. We are disappointed that the government has not addressed this issue in the amendments it will move to the bill. Clearly, for us, this raises the very same issues of principle which motivated the Attorney to favourably reconsider the treatment of stage 3 parenting orders that I mentioned earlier.

Court orders include orders about the treatment of matrimonial property, including orders that a person not dispose of or encumber property, or orders which restrain certain conduct; for example, an order that a person not approach the house of the former partner or the school of the child. While there is a capacity for a person to argue that they have a reasonable excuse for contravention of the order, there will always be circumstances in which, despite the fact that a reasonable excuse cannot be made out, the breach is incredibly trivial and in those circumstances not worthy of a sanction being imposed. A situation, for instance, can arise where a particular party has an axe to grind and may bring an application to the court for a punitive sanction to be imposed even for the most trivial breach of an order. Under this bill, as it is currently framed, the court would have no alternative but to order a sanction. Mandatory sanctions restrict the courts' capacity to ensure that the response is proportional to the seriousness of the breach and also that consideration is given to more appropriate alternatives. Given the highly emotional context in which family law cases are conducted, the case for judicial discretion in determining how to treat breaches of orders is overwhelming. In our view, discretion should be restored to the court to allow it to deal with breaches of other court orders in a manner appropriate to the circumstances. As a consequence, I will move amendments to this effect later on in the proceedings.

I turn now to the relationship between the Family Court and the Federal Magistrates Service. The Senate committee recommended that the Family Court and the Federal Magistrates Service be empowered to vary or discharge each other’s community service orders. This is a practical suggestion which makes sense. As the federal magistracy gets up and running, it is likely that there will be a number of areas in which the shared jurisdiction with the Family Court will require clarification and refinement. It is pleasing to see that the government has decided to accept this recommendation of the committee and is seeking to amend the bill accordingly.

The question of explanation of parenting orders is something of concern, and the committee was concerned that proposed section 65DA, which would require the court to explain the effects of parenting orders to the parties, would be impractical and that, as a result, the intended effect of the preventative measures may be diminished or lost. We are pleased to see that the government has accepted this recommendation. It is a practical approach which takes into account circumstances. We welcome the government’s commitment to amend the bill to provide that an explanation may be made by the use of a court produced document providing parties with further information about orders and the consequences of breaching an order.

The issue of attendances by both parties at parenting programs was addressed by the committee. The committee suggested that the A-G’s Department investigate the possibility of giving the court the power to order both parties to attend a parenting program or, if more appropriate, counselling when there has been a breach of the order without reasonable excuse. The government has indicated that it will move amendments to the bill to achieve this: that is, to give the court a power in the appropriate circumstances to make an order to ensure that both parties attend such a program or counselling. We support that change.

The committee also looked at the issue of binding financial agreements and recommended that the grounds for setting agreements aside should be expanded. It identified
two particular issues as requiring special consideration—the setting aside of agreements where there has been non-disclosure of appropriate information and the need for changed circumstances in relation to the care of a child to be exceptional. The government has revisited the issue and amended the bill in the House to include an amendment which will expand the grounds on which financial agreements can be set aside. That amendment replaced existing paragraph 90K(1)(d) with a new paragraph. We see this as a welcome expansion but we are firmly of the view that it does not go far enough.

Parties to agreements such as those contemplated by the bill do require special protection. There are difficulties inherent in entering into a binding financial agreement which could potentially apply in circumstances which neither party could have contemplated at the time of making the agreement, and would apply to all future and present property. The grounds for setting aside such an agreement, we believe, should be greatly expanded to allow a court to set aside or vary a financial agreement where the agreement has an operation which is harsh, unfair or unreasonable. As a consequence, I will move amendments which, in addition to the grounds already provided for in the bill, will provide courts with the discretion to set aside agreements in circumstances in which, at the time the agreement was entered into, the agreement was unfair, harsh or unconscionable, or against the public interest; or, secondly, the agreement subsequently became unfair, harsh or unconscionable, or against the public interest, because of any conduct by the parties to the agreement or for any other reason. This will restore a broad discretion to the court to consider all the circumstances in determining whether to apply the provisions of an agreement. Our amendment will also allow a court to vary a binding financial agreement rather than to set the entire agreement aside, if one of the grounds allowing a court to set aside the agreement is demonstrated.

We believe that the government’s approach is like using the proverbial sledge-hammer to crack a nut. As the bill currently stands, the only option available to the court is to set the entire agreement aside. It is basically a choice of all or nothing. Once the agreement is set aside, the court will be required to divide the parties’ property without reference to those parts of the agreement which are not affected by the matters on which the agreement had been set aside. We think that that lack of discretion is inappropriate in these circumstances.

The committee also recommended that the government revisit the need for formalities in the execution of agreements—for instance, the witnessing of signatures—and provide for their registration without examination by the court. The government has revisited the issues and has pointed out that, with respect to the witnessing of signatures, neither the law of contract nor the Property Relationships Act 1984 (NSW), nor similar legislation in other states, requires any such witnessing. There is a good case that binding financial agreements of this kind therefore do not require signatures to be witnessed. Accordingly, in our view there is no need to amend the current provisions of the bill.

The committee also recommended that both legal and financial advice should be required prior to the finalisation of an agreement. Labor senators on the committee disagreed and recommended that only legal advice should be required. Given the significant legal ramifications which attach to entering into an agreement of this kind, it is appropriate that parties should be required to seek legal advice prior to entering into an agreement. However, financial advice should not also be required in all circumstances. It appears that government has accepted the views of the Labor senators in this regard, and an amendment was passed in the House to this effect, and we welcome that amendment.

Child support assessments have attracted some media attention, particularly in respect of the risk of people being jailed because of their failure to support obligations under the Child Support (Assessment) Act 1989. That is not the case. We accept that it was not the government’s intention in its initial draft bill to suggest that people would be jailed for such breaches. Nevertheless, in light of the debate which has occurred, we agree that it is
appropriate to amend section 70NJ(6) to put that matter beyond doubt.

The government has also given additional consideration to matters raised by the committee in relation to the Hague Convention on the Civil Aspects of International Child Abduction—the Hague abduction convention—and indicated that it will amend the bill to bring it into line with the interpretation of the convention expressed in the explanatory report, which interprets the convention as allowing the authorities of the state of refuge to return the child directly to the applicant, regardless of the latter’s present place of residence. An alternative would be to return the child to the country of habitual residence; however, this may be undesirable where the child’s parents no longer live in that country. The approach taken by the government, which must be reflected in regulations to be made under the act, will provide the Family Court with discretion to decide what is appropriate in the circumstances of a special case. The opposition supports these amendments and the regulations to be made to put them into effect.

Other government amendments that do not go to matters raised by the committee, for instance, sanctions for breach of child support assessment, have been circulated. The opposition welcome the government amendment in this area. The government has made a number of amendments to improve the operation of the financial agreements provisions. We support those amendments. We also support the amendments in respect of the Federal Magistrates Service.

In conclusion, Acting Deputy President McKierman, I commend you for your role on the committee, and I commend the other members of the committee. The opposition support the continuing reform of the family law, and the bill contains a number of measures to improve the operation of the law. We believe that the further amendments we are proposing will constructively address those areas where the government has not adequately addressed the problems that the bill has, as identified by the Senate committee. Accordingly, we will move amendments to try to rectify the government’s inadequate response in those areas. I commend the bill to the Senate.

**Senator GREIG** (Western Australia) (6.06 p.m)—The *Family Law Amendment Bill 2000* amends the Family Law Act 1975 in order to make three areas of general change. Firstly, it sets up new arrangements for the enforcement of Family Court orders affecting children—this is particularly in relation to parenting responsibilities and the care and sharing of children between two estranged partners. The bill sets up a three-tiered approach to deal with the convention of child contact approaches, those being preventative, remedial and punitive. This last point, the punitive measure which—let us be clear about this—refers to the possibility of jailing someone in the last instance, clearly proved during the public consultation process to be an area of considerable concern to many people involved in the critique of and comment on the bill. I think it is clear from the way the bill has evolved to its present form that much of that disquiet has settled, with the increase in understanding now and the legislative framework to ensure that, while a prison term may remain a part of this act, it would certainly be a last resort in the case of continued breaches of parenting orders, and that judges and magistrates would have the power to refer recalcitrant offenders to remedial programs without a mandatory direction to imprisonment. I believe this reform within the bill is necessary and has lessened concerns about the possibility of the unreasonable jailing of a parent.

The three-tiered approach would therefore be structured as follows. Stage 1 of the regime, as I mentioned, would be preventative. It will ensure that parents are aware of their parenting obligations, the responsibilities imposed by any orders and the consequences if they fail to observe those orders. It is also intended to improve communications between parents. The second stage would contain remedial measures. The court will be able to send the parent in breach to a range of educative post-separation parenting programs and will also be able to make an order to compensate the other parent for lost contact. The aim of the educative programs will
be to help parents to resolve issues of conflict about the parenting of their children.

Stage 3 will contain the punitive sanctions. Where there are persistent breaches or where the first breach is particularly serious, the court will be able to impose a range of sanctions, including community service orders, fines, bonds or, ultimately, imprisonment. Concerns were raised about the lack of discretion given to the court when a person reached stage 3—that is, that the court was obliged to impose a punitive sanction. The government has since amended this bill to ensure that the court would require the person to undertake further post-separation parenting programs if the court believed that to be appropriate. As Senator Bolkus says, the Labor Party has circulated an amendment which would give the court the discretion to impose a sanction or not. We Democrats consider that amendment to be reasonable, and it will attract our support.

Schedule 2 of this bill will make financial agreements, including prenuptial agreements, legally binding, on the proviso that couples would seek legal advice beforehand. Presently, binding financial agreements—or prenuptial agreements—are not binding for married couples but are so for heterosexual de facto couples. Amendments in schedule 2 will enable BFAs to be made before or during marriage or after separation. Currently under the act, people can make prenuptial agreements about their property. However, the use of these agreements has been limited because they are not binding. Despite the existence of an agreement, the court has been able to exercise its discretion over any of the property dealt with in that agreement. The aim of introducing binding financial agreements is to encourage people to agree about how their matrimonial property should be distributed in the event of, or following, separation. Parties will be required to obtain independent legal advice before concluding their agreement.

It is important to also state at this point that no person involved in a relationship—be it de facto or married—ought to be under any impression that a binding financial agreement is compulsory, something that they must enter into. It is important for Minister Vanstone, I assume, who will be speaking to this bill later tonight, to make it very clear for the record that there should be no element of duress in terms of binding financial agreements and that they are in fact optional.

The committee process, which undertook wide consultation on this bill, found that many organisations were opposed to BFAs, for a variety of reasons, including the Family Court itself. Many people felt that women, in particular, were often in a weaker bargaining position and in a less advantageous position to be entering into binding financial agreements on equal terms. This may particularly be the case when the male in a heterosexual relationship is the person with the assets and capital and the female partner comes to the relationship with relatively little but may nonetheless be likely to support and sustain that relationship for many years, including possibly raising children.

There is a general concern with many women’s organisations that binding financial agreements are inherently unfair to women. We Democrats are conscious of this concern but do not believe that binding financial agreements for married people should not be made lawful and binding. Instead, we agree with both the government and opposition that these forms of prenuptual agreements—given that they already exist in a binding form for de facto heterosexual couples—should logically be made available to married couples. In fairness to its critics and to be reasonable we accept that the courts must have clear grounds to, where appropriate, set aside a BFA when deciding on dispute resolution and property settlement for a separating couple.

In not all circumstances will a binding financial agreement be defendable or appropriate. Concerns were raised during the committee process about the very limited grounds on which a court could set aside a prenuptial agreement. These grounds are limited to: one, the agreement was obtained by fraud; two, the agreement is void, voidable or unenforceable; three, circumstances have arisen since the agreement was made which make it impracticable for the agreement to be carried out; and, four, there has been a material change in circumstances
since the making of the agreement, being circumstances relating to the care of a child of the marriage. To that effect, Labor has circulated an amendment that would extend these grounds, as Senator Bolkus has said, to include: one, the agreement is harsh, unfair or unconscionable or against the public interest; or, two, the agreement has become unfair, harsh or unconscionable or against the public interest because of any conduct of the parties to it.

We Democrats are sympathetic to this amendment proposed by Labor but feel that it goes too far, to the point of possibly undermining the binding nature of those agreements, which of course is their key purpose in the first instance. We argue, for example, that terms such as ‘unfair’ are incredibly difficult, if not impossible, for courts to determine. I do not understand why Labor would argue that the term ‘against the public interest’ ought to be included, given that an agreement of this nature—a binding financial agreement—is not of public but of private concern. It relates only to the two people in the agreement, and not beyond that.

So I indicate that we Democrats are not inclined to support Labor amendment (4) in relation to broadening the subsections. However, I advocate that senators give consideration to the Democrat amendment circulated in my name which would broaden these grounds for exemption just a little—but, I think, in a more tightly legal way—that is, by relating only to the term ‘unconscionable’. We do that on the basis that the term ‘unconscionable’ is in common use within legal circles and that it is very clearly defined within, for example, the Trade Practices Act. We feel that the courts would not have any particular difficulty interpreting what would be meant by that within this particular context.

Part three of this amendment bill makes miscellaneous changes to arbitration, child maintenance orders, international child abduction and rules of court for enforcing orders about property and money. Amendments in schedule 3 are a range of incidental amendments. For example, they increase the range of non-judicial dispute resolution services by introducing a workable scheme of private arbitration to settle disputes. They also include amendments designed to assist the smooth functioning of the court by facilitating the transfer of proceedings between courts.

This bill is directed at helping couples who are separating to achieve financial equity and certainty. It aims to do this by implementing a number of the recommendations in the 1992 report of the Joint Select Committee on Certain Aspects of the Operation and Interpretation of the Family Law Act 1975. I think it is fair to say from the outset that the area of family law is a difficult and contentious one because it involves and affects people in such deeply personal ways, especially where children are involved. For this reason the issue of family law and the Family Court itself often attracts unwarranted and unreasonable attention from critics. In recent years we have seen organised political groups galvanised to focus on the operations of the Family Court as a matter of key policy.

I think what is often lost in all this is the simple fact that the Family Court is voluntarily entered into as a dispute resolution mechanism when couples are unwilling or unable to resolve issues amongst themselves. Despite all the recent criticisms of the Family Court in popular discourse, the fact remains that it exists as an aid to uncooperative partners; it does not create uncooperative partners. Perhaps, because of the sensitivity of these issues, this bill was conscientiously sent to the Senate Legal and Constitutional Legislation Committee for public comment. I am sure that you would recall, Mr Acting Deputy President McKiernan, that many individuals and stakeholders entered written— in some cases, public and personal—submissions, totalling in the end, I think, some 70 responses from the community. These submissions revealed some general themes and areas of support and concern about the proposed bill which will be addressed in the amendments proposed in the committee stage.

In summarising the issues the committee expressed the view that the government should give further consideration to some aspects of the legislation before proceeding,
and it is clear that, prior to this bill entering the Senate, this happened. For example, those changes that have to date been made in relation to the punitive measures are proposed for contact breaches. I give credit to the government for adopting and including so many of the recommendations that came through the public consultation process, to the point where there is broad agreement from the three parties represented here in the Senate.

In its concluding chapter the committee, as you may recall, Acting Deputy President, said:

The committee is convinced that this is basically wise legislation.

I would concur with that. I also think it is necessary and timely, particularly in the context of the issue of child support that we were debating earlier today, which is so often interrelated with these issues.

One final point I would like to make concerns the statement that the committee made at paragraph 6.10 of its final report in relation to the Federal Magistrates Court:

The committee sees no reason to prevent the federal Magistrates Court from dealing with legal issues arising in private arbitrations and look forward to the consideration by the Attorney-General’s Department of the issues raised in relation to the Hague Convention on the Civil Aspects of International Child Abduction.

On that earlier issue, I make the point that when the new federal magistracies are up and running and begin to find their feet and deal with the cases that come to their doors it will be interesting to monitor the success or otherwise—success, I hope—of those many cases which will find themselves before the federal magistracy. Perhaps this will alleviate some of the considerable build-up of cases that once presented themselves before the Family Court, often delaying the processes of many of the cases that came before it. In broad terms we Democrats are supportive of this legislation and some of the Labor Party’s amendments. We will propose an amendment of our own, which we solicit support for from both the government and the opposition. I shall talk much more about that as we deal with the amendments on a case-by-case basis in the committee process.

Senator COONEY (Victoria)  (6.21 p.m.)—In his address Senator Greig covered many an issue and covered them all well. He said that there was a disinclination on the part of the Democrats to support the amendments to be moved by Senator Bolkus to the Family Law Amendment Bill 2000. He said that the phrase used in one of the amendments, ‘against the public interest’, was an awkward phrase in this situation because this agreement that has been spoken about between the parties is fundamentally a private issue. The issue of how marriages work is, to an extent, a private issue but it is also a public matter, because the issue of how people are treated when a marriage breaks up—the support they receive and the way the children of the marriage are treated—is very much a matter of public interest. Indeed, the Family Law Act 1975, with its numerous amendments, is an indication that the public has an interest in seeing how marriages go.

The very issue of divorce is one that must be treated publicly. If you go to court, the court makes an order or declines to make an order before the marriage is dissolved—or the marriage is continued, depending on what order is made. The quite voluminous material that makes up the Family Law Act sets out many situations in which the public have a say in the way a marriage operates. So the public interest is involved in this part of family law that we are now dealing with—that is, the agreements that may be entered into by the parties to the marriage—and family law deals with many other aspects of marriage. That is a traditional thing. We inherit our law from England. In feudal times—and following that, even to today—marriage involved alliances. Oftentimes, particularly in the past, marriages were made to cement alliances. That issue still has resonance in many marriages today. Indeed, the Magna Carta is a document that is often referred to. As I remember it, the issue of marriage and the issue of lords, in particular, marrying off their eldest daughters is dealt with in the Magna Carta, as are the wardships that operated then. So for Senator Greig to say that this is a matter that does not involve the public interest is, I think, misdirected.
Senator Greig talks about the privacy that should operate in marriage—and so it should. I am an old-fashioned person: I think people ought to marry for romance. I am a person who thinks Jane Austen wrote good stories. I am a person who thinks that *Romeo and Juliet, Antony and Cleopatra* and all the other romances that Shakespeare dealt with have a resonance which I hope permeates the marriages of us all, at least at some stage: it would be terribly disappointing if we got married and did not have some zip and zoom in the relationship, at least at some time in the history of that relationship. That feeling might not necessarily go on, but at least it should be there at some time so that the people involved have that experience of romance that is, I think, behind the comment that Senator Greig made about the absence of public interest in this area.

These agreements are, it seems to me, of a nature to take the romance out of marriage. It always seems a bit of an anomaly that, on the night that the partners pledge eternal love and say that they are going to stick to each other through thick and thin, out comes the contract and people sit down and say, ‘Well, before I give you the final kiss for the evening, we will set out clauses 4 to 5 in the contract as to what will happen when this intimacy is no more and we break up.’ That seems to me to be contrary to romance. I have raised this before. When I did, somebody said, ‘These agreements ought to be confined to older people, more mature people, people who have been married once and are coming back for a second go. Perhaps it does destroy the romance of youth and the first blush of romance.’ At my age—and I am well over 60 now—I still get a great buzz when I am with my wife, Lillian. I would hate to think of us at this time in our lives sitting down and drawing up an agreement as to how the property, humble as it may be, should be distributed, should we ever have the misfortune to part. I see Mr Bourke over there in the advisers box. He is very learned in this area of the family law. He probably thinks this is a good thing. But I ask him to think about his own marriage.

**Senator Ian Campbell**—Does he know Lillian?

**Senator COONEY**—Senator Macdonald, I am more than happy to introduce him to my wife. Senator Ian Macdonald has had his children, his boys, here. He and his wife have a very happy marriage. I am sure he has not signed an agreement that will distribute the Macdonald property in any way.

**Sitting suspended from 6.30 p.m. to 7.30 p.m.**

**Senator COONEY**—Immediately before I sat down at 6.30 p.m., I referred to Senator Ian Campbell as Senator Ian Macdonald—a crime that cannot be easily forgiven. I hope my apologies to Senator Ian Campbell and his wonderful family are sufficient. Two things have been concentrated on in the debate on the second reading of the *Family Law Amendment Bill 2000*. There is the issue of the agreements between the parties—agreements made before the marriage, during the marriage or after the marriage is finished—and I have made some comments upon that. The other main element is the issue of parenting orders and what sort of provisions can be taken to enforce those parenting orders, and the bill sets out mechanisms by which they can be enforced.

The bill tries to simplify things so that the parties know where they are and, at the same time, it tries to enact provisions so that the enforcement of orders is done in a way that takes into account the tragedy of the break-up of a marriage. The trouble is that, when you try to do that, there is a problem of putting into the one category cases that should not be put into that one category. That is why there is a discretion left to the judiciary as to how they should go about enforcing orders and as to what orders they should make. In my view, there is a lack of sufficient confidence in the courts in a lot of legislation that is coming through at the moment and, with the very best of intentions, sometimes things can be made worse. In any event, the provisions that are in here that will become legislation to enforce the orders made by the court will become law, and we will see how they work.

One thing that does worry me is that, when a court makes an order, it must make it clear to the parties exactly what that order means. If there is not a counsel, if there is
not a lawyer there to explain that to them, the court has to do it itself. That is always a problem, in my view, because the court is there to decide the issues between the parties, and once the court starts to enter into the contest, there are problems. In any event, that is what is provided for in this legislation. On the issue of lawyers, there is also a provision in the other main part of the bill—that is, the agreement—that the agreements must be vetted by lawyers and explained to the parties, and there are certain issues that that explanation must take account of. Again, I think there are problems there, because there is going to be litigation as to whether or not the explanations were as full as they might have been and there are going to be questions about how well those agreements were explained to the parties.

In any event, the field of family law is an ever moving feast and it is always interesting to see new legislation brought in to solve the problems as they arise. This is legislation that, since 1975, has been amended on a number of occasions and there is no doubt, given the nature of this, that there will be amendments in the future. You are never going to get it right, because the break-up of marriage is a tragic thing full of high emotion, full of bitterness, full of disappointment and full of all those emotions that make judgment very hard to exercise. This is a field of human life which contains some of the great tragedies that occur in this society—for the partners, for the children, for those that are associated with them and, returning to a point that I made before, for society generally. Accordingly, there will forever be an attempt to get things right and there will always be the situation where they are never got right. It is a matter of the parliament trying to improve things and it is also a matter of the courts trying to do things, and getting the balance between those two institutions is always a very interesting exercise.

There are other provisions in this bill which I think ought to be noted. I refer, for example, to part XIII AA, ‘International conventions, international agreements and international enforcement’. That talks about the fact that marriages that end up with people divorced or separated and with children taken from one parent can result in one party being overseas and the other party being here, and it talks about how those matters should be accommodated. The Hague convention is one way, and there are matters that are disposed of by treaties. This very week, Mr Burke—to embarrass him again—explained to me how a treaty between Egypt and Australia was to work. This is because Egypt has laws that do not lend themselves to conventions like the Hague convention. But it does illustrate that we are a world that is forever narrowing. We are a smaller world. We are often told that in terms of economic matters that are brought before this chamber. But just as the economy is becoming global, so the issues that arise in the break-up of marriage are becoming world wide. It is for that reason that I draw attention during this debate to the provisions contained in the bill to do with that issue, which are set out on page 68 and follow on from there.

There are other provisions in the bill. I was talking about the courts. I think the courts will have some trouble with this legislation. I do not suggest for one minute that, for that reason, parliament should not attempt to set parameters which will relieve the distress of marriage break-up. There are certainly some good things in the bill. No doubt the court would welcome the provision to allow for an increase in the number of people on the Court of Appeal that operates in this area.

I see that there are amendments to the bill. I think these amendments ought to be considered, and there ought to be a significant debate on this matter, because, as I say, it deals with an area of human life where emotions are stressed to the limit and where there are oftentimes good arguments on all sides. We all live lives which have shade in them and light in them. People can look at the dark side and say, ‘What a terrible person you are,’ or they can look at the light side and say, ‘You’re not such a bad person.’ When I say ‘you’, I am using the generic term, Madam Acting Deputy President. In matrimonial disputes, oftentimes people look only at the dark side of each other, and that makes it hard for the courts and for society through
the courts to mend what needs to be mended. I hope that this legislation and the amendments that are suggested might relieve that situation, at least to some extent.

Senator HARRIS (Queensland) (7.41 p.m.)—I rise to speak on the Family Law Amendment Bill 2000 with great humility, because I believe that, to resolve the complex issues that we have before us relating to this act of parliament, one definitely requires the wisdom, the understanding and the patience of Solomon. Being a mere mortal, I do not claim to be extremely proficient in any of those areas. Having said that, though, I believe it is my responsibility as a senator to listen to the people who are unfortunate enough to find themselves in this situation and respond to the best of my ability to the issues that they raise with me. This is my intention through the progression of the second reading debate and subsequently in the committee stage of the bill.

In one area of the bill that the government is attempting to bring in, I believe the government is moving in the right direction, and that is in the acceptance of binding financial agreements. But, almost without exception, that is where my support for the government and this bill ceases. If we look at the clause of the bill that has concerned people the most, we go directly to the changes to the enforcement of parenting orders. If this bill is passed, it is the intention of this government to amend the act to have a punitive jailing section. I do not believe that is in the best interests of families, I do not believe it is in the best interests of children and it is certainly not in the best interests of the person who is going to be incarcerated.

Furthermore, the bill has an anomaly that we do not find in our other laws. A person who is jailed for breach of an order will still be liable under the bill following their release. Corporate criminals who are jailed for enormously horrendous misappropriation of funds simply walk away from that period of incarceration with no debt to society, and I see no difference with the gentlemen or ladies in this case. I believe the Family Law Act should be directed more at joint parenting and joint custody. I repeat very clearly that I do not condone parents not taking responsibility for providing for their children. It has been inferred that I support people taking food out of children’s mouths; nothing could be further from the truth and nothing could be more abhorrent.

Another issue in the act is access. There are substantial problems with the act in that, when an order for access is given, enforcement is extremely difficult in some cases. The act, and the Child Support Agency working through it, are very quick to enforce the child support regime under the act, but there does not appear to be the same amount of enthusiasm when it comes to ensuring access. Another fundamental problem with the bill is that the Child Support Scheme is structured around the gross income of the supporting parent. This causes enormous financial problems for the supporting parent—the payer. If a parent chooses to start a second family, they can find it almost impossible to provide for their second family to the same extent that they provide for the children of their first family.

The Child Support Agency and the courts frequently deem income to be well above that which appears on an individual’s submitted taxation returns. I ask senators to consider this point: how long do they believe a government would last in this country if it deemed the earnings of companies to be 50 per cent more than their real level based on the fact that the government believed that, if those companies worked harder, they could earn those sums? That government would not last one day. The system is totally unacceptable to the people whose incomes are deemed, and I believe justly that, if the business fraternity found themselves in the same boat, they would object just as vehemently.

One of the best ways to encapsulate some of the problems that are inherent in this complex area is to refer to an actual case that has been brought to my attention. Without revealing the names of anyone involved, I would like to share with the chamber the circumstances in which this payer found themselves. I will quote directly from the letter, which states:

The CSA has not behaved impartially during the “Change of Assessment” and the subsequent review process. As already stated I have contacted
the CSA and they suggested that they attempted to contact me on a disconnected phone … and sent mail to me [at my previous address]. The reason why the CSA’s so called reasonable attempts to contact me are not plausible are:

1. I personally gave the CSA my new address and phone number (with answering service). I have recently confirmed with the CSA that this address and phone number has been on their computer system since 28/8, whilst the review of my Change of Assessment took place in September and October, with the conclusion documented on 5/10.

That date is important. The letter continues:

2. The CSA (although not the “change of assessment” section, and certainly not for the purposes of consultation) has sent correspondence to me at my new address, confirming that they are fully aware that I reside in … [the] ACT. At least one of their letters (20/9) pre-dates correspondence [of] (5/10) regarding my change of assessment.

So the Child Support Agency sent out letters on 20/9 to the old address. The letter continues:

3. The CSA informs me that they are privy to taxation forms, which were completed on the first day of my employment in the ACT on 31/7.

So the Child Support Agency confirmed that it knew where this payer was in the seventh month. It further states:

4. The CSA has taken money from my salary from my current employment since August, and wrote to my employer on 10/8 confirming that they are well aware of the place of employment, and that I have relocated. I work in an office close to a phone with an answering service, and have never been contacted by the CSA there in writing or by phone.

5. I have spoken with CSA officers who cannot explain how this lack of communication could have occurred. They also agree that it does not take a great deal of intelligence to work out that if my phone is disconnected (as reported by the CSA concerning the number they rang) there is a possibility I have moved—particularly in this case, where the supporting parent had even given the Child Support Agency a mobile phone number. It then continues:

One officer from the CSA told me that it was routine for her to check change of address if she happened to call a number which was disconnected.

6. A number of people have contacted me … at my new place of employment through contacting my old employment place.

For these reasons I believe that it is not possible, even for an organisation as incompetent as the CSA in ‘managing responsibilities’, to realistically claim they could not contact me.

The CSA now informs me that I have only two options,

1. To take the CSA to court—this would be costly.

2. To lodge an appeal and continue within the same … process. Twenty-eight days are given to appeal the decision, of which twenty have expired before I received notification. I reiterate that this notification would not have been received at all if it had been left to the CSA. This process could then take another three months to evaluate according to the CSA.

That is only one case that clearly shows total incompetence by the Child Support Agency. It is this agency’s ability to wreak havoc on the people it has been put in place to help that the government is going to increase. As I said in my opening statements, the only section of this bill that I believe in any way assists people who are unfortunate enough to find themselves subject to the Family Law Act is the section relating to financial agreements. I will be supporting that section, but I will be vehemently opposing the punitive sections of these bills, particularly those relating to the jailing of offenders.

I close by saying again very clearly that I oppose those government proposals that are based on the deeming function. If the government removes the ability of the Child Support Agency to use the deeming process, if it looks at every case—and I mean every case—and reassesses each in relation to the real income of those people, then I would be more inclined to support a substantial amount of this bill. But, while those deeming processes apply, I have no option other than to oppose those sections of the bill.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (7.58 p.m.)—I thank all senators for their contribution to this debate on these highly emotive issues, and I welcome the general bipartisan support for the measures in the Family Law Amendment Bill 2000. I would like to assure particularly Senator Harris, and indeed all other
senators, that the government is aware of the distress that can flow from disputes in family law—and the government is always trying to find ways to minimise the cost and to minimise the distress. We welcome the new Magistrates Service as a way of reducing delays and costs.

The bill amends the Family Law Act in these major respects. It introduces a new three-tier compliance regime for enforcement of orders affecting children—and certainly it is preventative, through greater information provision on the effect of orders and responsibilities of parents; it is educative, by providing for post-separation parenting programs; and it provides mandatory sanctions as a last resort. Also, it provides greater certainty and equity for couples in relation to their property, by allowing for binding financial agreements. It provides for a workable scheme of both court-ordered and private arbitration. Also, it makes a range of amendments to the act, such as updating the provisions that implement The Hague convention on the civil aspects of child abduction.

The opposition proposes changes to the provisions relating to binding financial agreements that will reduce the certainty, and the certainty is a major reason for the government introducing these reforms. The grounds for setting aside of agreements reflect advice to the government from the Family Law Council some time ago. They are modelled on provisions already in the act relating to agreements about maintenance. They have been subjected to judicial determination and are relatively certain in their meaning. To provide the greatest certainty about individual agreements, the government did not allow for agreements to be varied. If parties want them varied, then they must terminate and make a new agreement, so why should the court be able to do something that parties cannot do? In terms of making sanctions for the breach of orders mandatory, the government believes that orders of the court should be properly observed. There is a clear community perception that this is not happening. If the order is not appropriate to enforce, then you would have to ask: why was it made in the first place?

I would briefly like to comment on a couple of issues raised by senators. The first was the comment made by Senator Greig about how we would ensure that there is no element of duress when the parties enter a financial agreement. In response to this at this stage of the bill, I would say that financial agreements are purely voluntary. Parties are not required to enter a financial agreement but, if they choose to do so, the bill requires the parties to be independently advised by a legal practitioner. That advice must address the following very specific matters: the effect of the agreement on the rights of the party, whether the agreement is to the advantage of that party either financially or otherwise, whether it is prudent to enter the financial agreement and whether the terms are fair and reasonable. Practitioners must also certify on the face of the agreement that they have provided the advice in the terms required. Senator Harris also made a comment that the bill introduces the possibility of jail for breach of a parenting order. I point out to him that this replicates the existing law, and I would ask him to refer to section 112AD of the Family Law Act. I thank senators again.

Further comments made during this debate will be considered during the committee stage of the debate tomorrow. I commend the bill to the Senate.

Question resolved in the affirmative.
Bill read a second time.
Ordered that consideration of the bill in the committee of the whole be made an order of the day for the next day of sitting.

GENE TECHNOLOGY BILL 2000
GENE TECHNOLOGY
(CONSEQUENTIAL AMENDMENTS)
BILL 2000
GENE TECHNOLOGY (LICENCE
CHARGES) BILL 2000
Second Reading

Debate resumed from 6 November, on motion by Senator Ian Campbell:
That these bills be now read a second time.

Senator SHERRY (Tasmania) (8.03 p.m.)—I rise to continue my contribution on
the Gene Technology Bill 2000 and the two cognate bills. Before the Senate adjourned last night, I was commenting on the exemptions that apply to a very limited range of dealings and that are based on the experience of assessing applications in Australia over the last 25 years. In addition, these dealings present no significant biosafety risks to public health and safety or the environment and are undertaken in contained facilities. Current methods of human embryo research do not fall within the definition of gene technology in the bill we are considering, because whole nuclei are involved in this work so manipulation of genes does not occur. In the future, it would be open to a minister to declare this research a thing to be a GMO for the purposes of the act, and thus bring this research under the umbrella of the OGTR.

Cloning of entire human beings is banned by current ethical guidelines in all publicly funded research institutions and facilities in Australia. In addition, specific legislative bans that apply to all research on cloning of entire human beings in public and private institutions and facilities are in place in Victoria, Western Australia and, to some extent, South Australia. There is concern that, in states where only the current guidelines are in place, private institutions that are not compelled to abide by such guidelines could theoretically conduct cloning experiments involving both cloning of entire human beings and cloning of embryonic stem cells. This loophole is to be closed with the proposed introduction of a national legislative framework banning cloning of entire human beings that was announced in July this year. Obviously, legislation in this area is highly contentious and raises very major economic, social, moral and ethical issues, and we will consider that at a later date. In the case of human embryo research, known as therapeutic cloning—for example, the use of embryonic stem cells to grow new organs—state legislation in Victoria and Western Australia and current guidelines regulate this research, including the production of embryonic stem cell lines. The problem that exists with the regulation of research in private institutions also occurs in this situation, and the future of such research is currently being dealt with by the House of Representatives Standing Committee on Legal and Constitutional Affairs as part of a wider inquiry on cloning.

In terms of the issues that have been identified with the current legislation, there is a range of claimed advantages in respect of the gene technology when applied to crops. They are in brief: firstly, varieties with increased resistance to pests and diseases leading to benefits, including reduced pesticide and herbicide use and consequent reduction in input costs and adverse environmental impacts from chemical use; secondly, new varieties which make better use of soil nutrients leading to reduced fertiliser use; thirdly, reduced labour costs and energy costs; fourthly, improved yields and quality and product that is better adapted to the requirements of the food industry and consumers; fifthly, quicker adaptation of crops to environmental and climatic factors, such as reduced water use, salt resistance and drought tolerance; sixthly, crops which incorporate the nitrogen fixing ability of lucerne, peas and soya into other crops, assisting improvement of soil nutrition and enhancing productivity; and, finally, accelerated breeding of plants with improved characteristics leading to productivity gains, such as the faster growing of trees for wood production and higher quality grains. Time does not permit me to go into them in any further detail.

But there are significant risks associated with gene technology. These risks have been identified as arising from modern genetic manipulation techniques, especially transferring genes from one species to a different species. They include: firstly, the introduction of unidentified allergens into GM food; secondly, the contamination of traditional or organic crops by neighbouring GM crops; thirdly, the inability to eliminate a GMO once it is released and found to have an adverse impact, as observed by the Organic Federation of Australia; fourthly, the increased environmental damage due to increased use of chemicals; fifthly, increased environmental competitiveness of GMOs, creating weeds in the case of plants or pests in the case of animals; sixthly, insect resistant crops adversely affecting non-target insects, exemplified by the study of the impact
of transgenic cotton on the monarch butterfly; and, finally, the transfer of genes from herbicide tolerance from GM crops to related species resulting in herbicide resistant weeds. Certainly, my view is that there is sufficient prima facie concern about some of the disadvantages that the precautionary measure that I touched on earlier is one that should be observed in respect of the legislation we are considering.

I would next like to touch on the Tasmanian position, as a senator from Tasmania. This has been an issue of very significant concern and public debate. The Tasmanian government considers that, as a sovereign state, it has the right to decide on the appropriate level of protection for its environment and primary industries, including the right to decide whether GMOs are released in the state and, if so, on what basis. The Tasmanian government, in the interim, has prohibited all further genetic research in this area other than in protected environments such as greenhouses and has indicated that it wants to determine its attitude on a crop by crop basis about the application of genetic engineering as it applies to Tasmania. This is in order to ensure that the current clean, fresh image that is a major marketing advantage to Tasmania is protected as well as the obvious other concerns that I touched on earlier.

It is not a simple issue, however. I observe the Senate Community Affairs References Committee report, which received evidence from a leading agricultural production company on the north-west coast of Tasmania where I live, a company called Serve-Ag—one of Tasmania’s most innovative, progressive and fastest growing agricultural companies. They have questioned whether Tasmania has to be totally GM free to enhance the clean, green image and suggested that it did not need to be. Serve-Ag have argued that the products and markets where GM or GM free would be an advantage needed to be considered on a case by case basis. In relation to the Tasmanian agricultural industry, trials have been mainly with canola involving herbicide and disease tolerant strains in poppies involving a strain to produce a greater alkaloid yield.

The complexity of the issue is further exemplified by the poppy industry. This industry is unique to Tasmania. We are the only state licensing commercial poppy cultivation for sale to the pharmaceutical industry. We are one of the few areas in the world where this production occurs. Sales are growing rapidly from $23 million in 1996 to an expected $100 million this year, of which 95 per cent is exported. Tasmania accounts for 25 per cent of the global market share of legal poppy production. The cultivation of GE poppies on a commercial scale is not envisaged for at least five years, but the industry does want to explore the technology through limited field trials to ensure that overseas competitors do not gain an advantage over the Tasmanian industry. Whilst there are significant marketing advantages for my home state in ensuring a clean, fresh image, there are some practical issues that do have to be deeply considered. Nevertheless, the Tasmanian government does want to have a say in our own destiny on this particular issue, and it has initiated an inquiry into GM and the parameters and guidelines and has sought, within the parameters of the legislation that we are considering, an ability to opt out of certain provisions in the legislation.

In Tasmania, this issue is certainly of major public concern and discussion. My colleague Senator Denman, who is in the Senate this evening, my colleague in the other place Mr Sidebottom, the member for Braddon, and I circulated a questionnaire—I strongly believe it was appropriately balanced—to the north-west coast, seeking community input and response on the issue of GM. It was the largest single response to any survey that we have circulated in that part of Tasmania. The size of the response was quite staggering—3,000 persons, which I think is a good sized response for any questionnaire.

We asked: do you think genetically modified crops should be grown in Tasmania? Only 13.3 per cent said yes and 75.9 per cent said no. We asked: do you support the Tasmanian government’s one-year ban on growing genetically modified crops in the open? 79.7 per cent said yes and 16.5 per cent said no. We further asked: do you think there should be a total ban on growing ge-
netically modified crops in Tasmania? 71.9 per cent said yes and 18.4 per cent said no. We asked: do you support labelling of genetically modified food products? 95.5 per cent said yes. We asked: would you buy genetically modified food if it was cheaper? 11.3 per cent said yes and 75.1 per cent said no. We further asked: do you think you have enough information on genetically modified organisms? Only 12 per cent said yes and 83.7 per cent said no. I think this indicates that there is enormous public concern about the issue of genetic modification. The public do want answers to their questions. They want more information. They want to be involved in the process. This is not an issue on which governments can lead too far from community opinion. There certainly has to be very significant information—and I do emphasise information and education, not a propaganda campaign.

I will conclude my remarks on a positive note. I referred to the Tasmanian concerns, and I am pleased to acknowledge on this occasion that the recent negotiations between the states and the Commonwealth government have resulted—there was a public announcement only yesterday—in an agreement which apparently will be included in the legislation that we are considering. In my home state of Tasmania our Minister for Primary Industries, Water and Environment, Mr Llewellyn, has ensured that amendments will enshrine a fair and reasonable process for Tasmania to deal with its concerns about GMO releases on a case by case regional approach basis. I congratulate the other states, and I congratulate the current Liberal-National Party government for recognising Tasmania’s particular position on this issue. The right to opt out from categories of GMO releases in specific regional zones, including the entire state, on marketing grounds is a very important issue in Tasmania.

On the all-important question of environmental impacts, the Commonwealth has agreed that state concerns will be addressed at each stage of the assessment process. The Gene Technology Regulator, which will be established under this bill, will be obliged to accept a state’s wish to prevent a release if there was some environmental risk. And Tasmania won a further guarantee: the agreement of the Commonwealth to add to the legislation an appeal provision that would be open to state governments to the unlikely event that the states’ concerns were not taken into account. I congratulate our state minister, Mr Llewellyn, for his precautionary approach on this very important issue. It is critical to the future of Tasmania and its agricultural production. I am sure the minister will apply the Tasmanian aspects of the legislation in a considered and thoughtful manner. (Time expired)

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (8.17 p.m.)—I rise to speak on behalf of the Democrats in a debate on an issue that I have been waiting for some time in this chamber, and that is the regulation of genetic technologies. The Gene Technology Bill 2000, the Gene Technology (Consequential Amendments) Bill 2000 and the Gene Technology (Licence Charges) Bill 2000 set up a regulatory system to oversee so-called gap GMOs which do not fall within the six Commonwealth bodies and schemes that currently oversee genetically modified organism, or GMO, regulation.

While the Democrats believe that GMOs require effective isolation, risk management and independent assessment for environmental release, the extent to which the Gene Technology Bill 2000 achieves this we consider highly questionable. I would like to firstly acknowledge, as did Senator Sherry, the agreement reached between the Tasmanian and Commonwealth governments allowing an appeal provision for state governments if a state’s concern regarding a gene technology regulation issue was not taken into account. The Democrats welcome this announcement as an indication that the government is open to the market and environmental needs of states and territories and will be assessing the details of the proposal to determine the extent of state and territory appeal powers to enable self-determination with respect to the application of gene technologies.

The Democrats announced back in June this year support for an opt-out provision for the states and territories wanting to make
their own determination with respect to GMOs and the extent to which they are pursued by local industries. The fact that the bill did not provide for states and territories to determine their own regulatory system or pursue areas of natural advantage within agricultural markets, we believe, was a large flaw within the proposed system. Australia’s best bet for future markets remains in the pursuit of clean and green technologies and industries. There is no doubt that GE free will be a market differential and Australia cannot afford to deal itself out of this market so early in the biotechnology revolution.

The Democrats have always acknowledged that a moratorium would have to be carefully considered, as we do not oppose every aspect or application of this genetic technology. Indeed, we are aware of the dazzling, as I have described it previously, or the potential benefits of the genetic technology. In fact, the Democrats do not see a moratorium on this potentially beneficial technology as a viable or appropriate regulatory option at a federal level. A blanket ban on the technology may hinder innovative Australian research in the pursuit of positive bio-remediation applications, including bacteria that, for example, eat oil slicks or waste cements. At the same time, I recognise that states have differing industry bases and market advantages. States such as the aforementioned Tasmania or my home state of South Australia should be able to promote GE-free industries state wide if desired.

Australia as a mega diverse and isolated landmass and Tasmania in particular have a natural advantage to cater for GM-free products. We have the ultimate buffer zones: the Pacific and the Indian oceans, or Bass Strait in the case of Tasmania. There is no doubt that we should be using this market advantage and appealing to food markets like Japan and the EU, who of course are paying premium prices for GMO-free products. The issue of GM-free governments and communities is not an issue for legislation but an issue of providing scope within the current regulatory regime for choice. This is more an issue for labelling, adequate segregation and isolated production processes and testing rather than specific address under the current regulatory proposal for genetically modified organisms.

There are several areas of improvement that the Democrats see as essential for the implementation of a successful and effective GM regulatory system. As stated in our additional comments to the Senate Community Affairs References Committee report, A cautionary tale: fish don’t lay tomatoes, on the Gene Technology Bill 2000, the Democrats see two factors as integral to the establishment of an effective gene technology regulatory system: one that will ensure community confidence and one that will ensure independent public information and education. They are the two key areas that will ensure that members of the public have faith in these technologies and they will do so through a public awareness and education process or campaign.

Community confidence is, however, reliant on several multidimensional factors. Firstly, confidence is intrinsically linked to public opinion and perception. It was a quite valuable contribution for Senator Sherry to talk about the impact of the survey that he and other members have done in Tasmania to get a sense of how people are feeling about these technologies. Whether they are informed perceptions, it does not really matter; the point is that these are people’s perceptions in relation to labelling or other aspects of gene technology. I do not think that legislators, or scientists for that matter, or even regulatory regimes can afford to ignore those current levels of understanding or perception. The Australian public will have a much greater faith in a multimember body than in a one-person show. The Democrats support the recommendation of the Senate Community Affairs References Committee for the establishment of a three-person team to share the responsibilities of the Regulator of Gene Technologies. It is also a case, of course, of having an independent team in this particular position.

While I have reservations about stipulating or excluding certain persons from the position of regulator, or part of the team of regulators as the case may be, I also believe that certain career choices or extended periods may have an impact on the independence
of the office of the regulator, perceived or otherwise. Community confidence is also linked to having punitive penalties, random spot checks; scientific risk assessment; environmental risk assessment, at least to the standing of the EPBC Act; and, of course, public involvement. The Australian Democrats believe that the community consultative group should be a committee of standing and funding equal to the technical advisory committee and the ethics committee. The recommendation of the Senate Community Affairs References Committee inquiry to require cross-membership among committees to facilitate balanced regulation of GMOs is also supported by the Australian Democrats.

As I have stated before in this place, the main issue that gene technologies raise and that must be addressed by any effective regulatory system is the issue of the unknown—that is, the unknown effects, unknown consequences and, therefore, unknown risks. No-one knows what will be the extent or degree of effect of horizontal gene transfers of intended and unintended genetic manipulations on, say, human health and the environment. Therefore, central to this pursuit is the fact that responsible application and uptake of this technology are probably the only and best ways that we can appease public concern about the bill. The public must be taken with this technology—informed and included in the formation and instigation of responsible gene technology regulations. One way that the Democrats believe this could best be facilitated would be with the inclusion of citizen juries—that is, representative, deliberative democracy forums, when deemed appropriate by a community consultative committee, in the regulative process for issues of specific public concern.

I imagine there are a few people here who recall the consensus conference of last year and what a productive community process that was— involving all stakeholders whether representatives of multinational or agrimultinationals like Monsanto, right through to representatives of gene ethics groups, the consumer association or just your average punter. Members of the community were involved in that process and all sides learnt from those deliberations. Under the mechanism, recommendations of the jury would be put forward to the regulator body. After consideration, in cases where the outcomes of such consultative procedures are not implemented by the regulator, the reason is widely publicised for public information and justification. This process is usually via a media conference. In places like the United Kingdom the process has been used for many years for public input into varying aspects of public policy and regulatory systems.

The Democrats have reservations about many aspects of the regulatory regime that the Gene Technology Bill establishes. I have stated before on behalf of the Democrats my support and preference for a one-stop shop for gene technology regulation—not a replication of a mega regulatory body such as the United States Food and Drug Administration, which some groups were supporting for the Australian context, but a body which does not cause unnecessary complications and increasingly theoretical delineation between GMO products with the development of this technology. The Australian community deserves an easily identifiable and accountable Commonwealth regulatory body overseeing a coordinated approach to gene technology regulation—not one that just adds another level of paperwork on top of the disparate bodies and schemes that already oversee gene technology. I am glad this is vaguely amusing to the chair.

The Democrats therefore welcome the recommendation of the Senate Community Affairs References Committee to review the system after three years. We believe this should be a minimum requirement, and that the recommendation to investigate the feasibility of a one-stop shop is essential to the determination of the most effective regulatory system for genetic technologies in Australia. I acknowledge that the Gene Technology Bill 2000 is not the answer to the wide range of inadequacies in the current regulatory system and that many of the guarantees that the community requires to feel safe about this technology are not provided for by the current regulatory system or that pro-
posed by the Gene Technology Bill and its cognate bills.

The Democrats believe that this bill can be improved significantly to work towards the regulatory system the Australian community deserves and requires—though further review and reform are required to protect public health and environmental safety from GMOs and to earn public confidence. Effective isolation, opt-out provisions and precautionary requirements are the best way to contain our new biological knowledge and to support its appropriate application. Genetic technologies and the environment do not have to be—and should not be—enemies. Scientists and the community are recognising that there is much more to this debate than the notion of Frankenstein foods. And while I do not discount such concerns, I do not want to see a situation where the potential for this technology is disregarded due to community concern regarding these first generation GM products, agricultural products in particular. It is our responsibility to provide for the community a regulatory system that works towards this particular outcome. I believe that, with the incorporation of the recommendations contained in the Senate Community Affairs References Committee report—specific exemptions for states and territories, and the environment minister to approve any GMOs for environmental release—we can work towards such an outcome. I have previously put on record my concerns about the lack of the precautionary principle in the objectives of the ANZFA or the independent testing of GMOs released and have expanded these in the Democrats’ additional comments in the committee report in the light of new findings by the Public Health Association, which I am sure the chamber is aware of by now and which the Democrats refer to in their additional comments to the Senate Community Affairs References Committee’s report.

With respect to the issue of risk assessment, I would like to focus now on the commitment given to the Senate on behalf of the government by the Minister for the Environment and Heritage, Senator Hill, during the passage of the Environment Protection and Biodiversity Conservation Bill 1999 on 22 June 1999. He said:

... matters that affect the environment will be referred to the environment minister for assessment and advice by that independent regulator. That will ultimately be provided for through an amendment to this legislation—

That is, the EPBC Act—when it passes in conjunction with the law that is going to be put in place to set up the new GTR.

The bill currently does not provide for this. Instead, under section 50(3) it states:

The Regulator must seek advice on matters relevant to the preparation of the risk assessment and the risk management plan from:

...........

the Environment Minister ...

There is no stipulation for the minister to incorporate or act on such advice. Similarly, the regulator may consult relevant Commonwealth authorities or agencies on any aspect of an application when considering a licence application. The Australian Democrats maintain that review and assessment at least to the standing of environmental impact assessment under the EBPC Act are required and that the environment minister must approve all GMOs for environmental release.

The bill as it stands sets out low risk and exemption categories for certain types of genetically modified organisms. Exempt dealings are specified by the regulations, and I should acknowledge that the draft regulations were made available only in August of this year. Low risk dealings are defined within the draft regulations as including a dealing involving a host/vector system not mentioned as a host/vector system in part 2 of schedule 1 if:

(a) the host or vector is capable of causing disease in human beings, other animals, plants or fungi; and

(b) the donor DNA is fully characterised and will not increase the virulence of the host or vector; and the dealing is not a dealing listed in Part 2 of Schedule 2; and the dealing does not involve an intentional release of the GMO into the environment.

And similarly for a dealing involving a host/vector system mentioned in part 2 of schedule 1 if the gene inserted is:
(a) a pathogenic determinant; and,
(b) uncharacterised DNA from a micro-organism capable of causing disease in human beings, other animals or plants; or
(c) an oncogene; and the dealing
(d) is not a dealing listed in Part 2 of Schedule 2 and
(e) does not involved an intentional release of the GMO into the environment.

While that may sound like gobbledegook, they are the regulations that will be before the chamber. While I recognise that such manipulations are undertaken in contained laboratory facilities and that donor DNA of such host/vector systems are sequenced and mapped, I believe that such manipulations still pose a risk greater than that reflected in the bill and the corresponding draft regulations. So-called ‘low risk’ GMOs may still be transported, and the risk of an unintentional release for the potential manipulations covered by the above definitions must be considered significant. The Democrats very strongly believe that there should be truly random spot checks by the Office of the Gene Technology Regulator and that this should be treated with significant precaution.

The reason GMOs are topical and require specific regulation is that we simply do not know enough about them. Therefore, the classification of low risk and exempt GMO dealings is somewhat paradoxical. The Democrats have similar concerns for exempt dealings. Differing classifications of GMOs provide for further complications and costs, further subcategories and the risk of loopholes for sidestepping adequate precautionary measures for GMO regulation. The Democrats believe that regulatory and risk differentiation between GMO applications is a weakness and a complexity that must be addressed.

Current manipulation techniques involve the insertion of genetic material randomly and do not provide a precise or chosen location for insertion. The Democrats believe that the imprecise nature of this technology—and I do not think anyone would doubt that—and the nascence of the science pose possible dangers which are not reflected in the low risk and exempt classifications under the bill. I restate: the parliament has a responsibility not only to protect Australia from health and environmental risks but also, more importantly, to address the Australian community’s concerns about the technology as it exists now, beyond the purely technical. We cannot predict what the extent of the impact of this technology will be on our society or indeed what benefits it will bring, though we can act now to provide the level of assurance that Australians and the scientific community need to pursue sustainable and beneficial uses of this technology.

I note the comments by Senator Forshaw on behalf of the opposition in this place last night with respect to the allegations made by you, Madam Acting Deputy President Knowles, that non-government senators were acting through the committee process to hold up this very important piece of legislation. On behalf of the Democrats I would like to register our concern regarding the late circulation of the draft regulations underpinning this very important legislation. While the Interim Office of the Gene Technology Regulator has been willing—and I would like to place that on the record—to assist in any such inquiries, such tight time frames assisted neither the considerations of the Community Affairs References Committee’s inquiry nor the task of this place as a house of review to assess the proposed regulatory system. In fact, the Democrats and I have argued probably more strongly than just about anyone in this place to deal with this bill or at least some regulatory system in relation to genetic technologies. We have had no interest in holding up this process—in fact, we are glad that it has finally got this far, but not without sufficient review or analysis.

Finally I would like to draw attention to the need for the incorporation of the precautionary principle in the objectives and licensing provisions of the bill. The Democrats support incorporation of the precautionary principle in keeping with the definition contained within the EPBC Act at section 391, which states:

The precautionary principle is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation
of the environment where there are threats of serious or irreversible environmental damage.

There is no more pressing area of environmental concern which requires such an approach than the regulation of current gene technologies. I am glad to see that it has finally reached a point of debate in the chamber. I look forward to the committee stage. I urge members of the government to support the valuable recommendations in the Senate Community Affairs References Committee majority report. And I do urge the chamber to consider the Democrat amendments to which I referred as a means of improving and value adding the bill that is before us.

Senator CROWLEY (South Australia)—(8.37 p.m.)—I am pleased to speak on this important legislation, the Gene Technology Bill 2000 and associated bills. I am also very pleased to have had the honour of chairing the inquiry into this very important area. I suppose I would have to say that I thank the Senate for the opportunity to be provoked into learning about a terribly important area about which I had a general understanding—

Senator Kemp—We are pleased to have done it.

Senator CROWLEY—I am extremely pleased to have learnt about this, Senator Kemp. I think it is a great pity that more of us do not know about this. I was also very interested to know that so much genetic modification of organisms and processes was happening in this country with so few of us being aware of it or the extent of it. I do not think anybody has much trouble at all with genetically modified organisms that are being researched and developed within laboratories; I do not believe anybody has too much difficulty with GMOs when they come to the pharmaceutical area or the production of vaccines or inoculation material, and so on. Perhaps that is because there are fairly rigorous testing processes and experiments to ensure, as much as possible, that such products are safe for use in humans and that there is an appropriate appeal against them if they should not be. But what is very clear is that people are extremely concerned about genetically modified organisms outside of the laboratory, used either in field trials for crops or in genetically modified crops being provided for use as food, or in food products, or in the food chain. I do not believe having serious regard for community concern is the same thing as legislating or running a populist line. I think it is very important to make that distinction.

The first and loudest message that came through to our inquiry was the amount of community concern—a fairly informed community concern, I might say. I think the second important thing to note was that there were as many scientists of serious significance across this game who were opposed to work in this area outside of laboratories as there were scientists for it. Indeed some of the words to describe those people who have a caution about GMO organisms—like ‘noisy minorities’ or ‘extremists’—I feel also contribute to why the community is uneasy about the people who are so hot to promote genetically modified crops or foods. They do not like being called noisy minorities or extremists when they are simply cautious, concerned and asking for information. They are certainly not asking for trouble. Indeed I think those people who wish to persuade us as to the virtue of GMO organisms need to understand the community concern and how to talk to the community. Patronising or abusing the community is never going to persuade them.

Senator Gibbs—Hear, hear!

Senator CROWLEY—A point well made by my colleague Senator Gibbs on many an occasion during the inquiry. I would like to say that what we saw during committee inquiry was a continuation of a fairly extensive community discussion that had gone on prior to the development of the draft legislation. Senator Knowles has told us on a number of occasions about the extent of that discussion, and it is important to recognise that. It was very comprehensive, but I do not believe that meant it had concluded. Indeed many of the people who contributed to the community discussions made submissions to our inquiry, and I believe we were part of a continuing debate and discussion about this matter. Indeed this will continue during the passage of this legislation and probably well beyond it.
I appreciate how much the government has been at pains to provide information and I understand that discussions between the government and the opposition have been continuing, to the point where we had the announcement yesterday, available to all the Senate, about the arrangements with the Tasmanian government. I recognise that, as far as I understand it, to be evidence of the continuing discussion and agreement between the federal government and the state governments with points of difference here. I think these are all to the good. There is no absolute right answer or a closed view on this. There is a clear recognition of how important this legislation is and why the recommendations we made were to ostensibly strengthen the bill, not to delay it. That was the clear message that came to us during our inquiry, and I believe most of our recommendations could be incorporated with minimal time delay or difficulty.

Some of the points that I wanted to raise included the importance of a three-person regulator. I believe that the setting up of this Office of Gene Technology Regulator and the establishment of the procedures for how approval for licences for gene technology organisms research and field trials are going to be developed are going to be extremely challenging tasks. Setting up the office, getting the staff and setting in place the processes are not going to be things that can happen immediately. They are going to require considerable thought and deliberation. There are many questions I would love to ask the regulator, should he or she be able to come before this Senate and answer those questions. Indeed that is why I will be pleased to see the possibility of review, where we might say to the regulator: how is it going; what are you doing; what have been the toughest things to find out; have you had trouble setting the processes in train; how many people have asked for a licence and how are you going to decide which one goes first in the process—if 10 requests arrive on Monday, how are you going to decide which one gets the call first? That is why we recommend that the regulator be not one person but three.

This is a very onerous set of responsibilities, and we believe it would be far better for those responsibilities to be shared between three. Being such a person as a regulator would, I think, be a bit like being a judge. I had the experience of sitting on the appeals tribunal for mental health in South Australia. One of the things you discover is that it is not possible to talk about your decisions with many other people. It is, by definition, an isolating and lonely exercise. You cannot rush home and say, 'You should have heard what we decided today—those drongos,' or those experts or whoever it was. You cannot take the work outside the office if you are doing it properly. There are a lot of constraints and a need for privacy, thoughtful deliberation and so on. These responsibilities would, I believe, be much better shared between three regulators rather than one. The estimated costs that Senator Knowles has provided do not seem to me to be so onerous that they could not be afforded, particularly as the task will, I think, be massively onerous. I strongly recommend that the regulator should be a statutory authority of three people.

We also made a recommendation that there should be an option for third-party appeals, not just an option for appeals from people who are applying for licences. One argument I have heard against this in recent days is: 'Well, the AAT would not really be able to deal with third-party appeals because they would not necessarily have the scientific capacity or information and knowledge to deal with appeals from third parties.' One would wonder, then, how this same AAT would deal with legitimate complaints, as allowed under the legislation, from the applicants for licences, who presumably would be talking the same language about the same kinds of scientific questions. If that is an argument that is being used, it is not a sufficient argument. I think that there is a prospect of mischievous appeals, and there needs to be a mechanism that weeds them out. It should not be possible for litigation to be run at the whim of just anybody. But, if a properly designated organisation has a concern and this can be filtered through, I believe it is appropriate that the third party have an option for appeal. This option should not just be for those people who are successful or unsuccessful in applying for a licence. Pre-
sumably it would be more likely there would be appeals from the people who are unsuccessful in applying for a licence. I think the community—properly, too—is concerned. Since this report was tabled I have had a lot of conversations on the phone with people—particularly people from various local government areas—who are very concerned about the opportunities for their areas to become GM-free zones. I may not have accurately judged the extent to which local governments or shire councils around Australia want that option, but it is not just extremists or oddballs who are concerned about this; many people now are successfully marketing under the banner ‘clean and green’, as Senator Stott Despoja said, or ‘organic products’. Some people say, ‘But GM has got nothing to do with organic.’ One of the things that distinguishes ‘organic’ is that it is pesticide free. So if you are putting into an area a crop that effectively has a built-in pesticide in its genetically manipulated substance—as is the case with roundup ready cotton—I think you would have to say that GM organisms are not all that remote from organic. If not, please explain.

Those farmers who grow organic crops gave us evidence that they want to know if any GM crops will be field tested within cooee—if not downwind or within a bee flight—of their own crops. That is why we have recommended that, notwithstanding commercial-in-confidence requirements, to make the community and farmers as comfortable as possible, and to protect their own investments, the publication of such field trials must happen. We appreciate that there is evidence in other countries of what is now being called ecoterrorism: people who have planted GM crops or are conducting GM field trials have had some of those plants ripped out. We believe that stern penalties against ecoterrorism should be sufficient discouragement in this country, rather than not explaining to people where such crops are. I am advised that under the legislation the regulator, in approving a licence for a field trial in area X, must notify the appropriate local government or shire council authority. That local government or shire authority then has the option of making a submission for or against that field trial or of making any other comment about it.

I note—Senator Sherry talked about this today—that the option for GM-free zones or a GM opt-out is something that has significantly changed since the discussions between the federal government and the Tasmanian government. According to page 7 of today’s Age:

States have won the right to decide for themselves whether to grow genetically modified organisms, under changes to Australia’s regulation of the controversial science.

This means states will have the power to ban individual GM crops on marketing grounds, and it opens up the prospect of GM-free regions or even an entire GM-free state.

The shift, agreed in principle at a meeting of state and federal officials, will be written into the policy of a Ministerial Council on Gene Technology, according to a spokeswoman for federal Health Minister Michael Wooldridge.

An amendment to the new Gene Technology Bill will also enshrine a state’s right to appeal on environmental grounds against a federal decision to allow a GMO’s release.

This development, after consultation between the state government and the federal government, deserves commendation. It is part of ongoing discussion about, and development of, this legislation. As I say, we cannot presume that we have got it right. What we can presume is that we have got it as best we can at this time, though one of the reasons the majority report contains a recommendation for a review after three years and not five is that we believe this is a very significant area and that it needs to be looked at sooner rather than later to see that what is in place is sufficient to the task or whether indeed it needs even further amendment. I commend those people involved in the discussions who have brought this outcome. It is evidence of the continuing serious commitment by people involved in the GM regulator area to see an optimal outcome.

There are a couple of points that I think deserve comment and I would like to ensure, as we go through the legislation, that they are covered. One is the evidence arriving on my desk, from many places each day, about how the regulator will satisfy himself or herself
that the evidence provided in support of an application for a licence is sufficient. The evidence about Aventis that was featured in the Sunday Age last week and that exposed—or, as Senator Stott Despoja said, at least elaborated on the fact—that, for example, Aventis provides evidence about why Aventis is okay to get a licence is the sort of thing that needs to be tested by the regulator. There may need to be ways in which the regulator can be assured that the evidence provided by the company is properly and rigorously tested.

I would like to ask the regulator: what have you done to ensure that the evidence they have given you does satisfy you? The evidence shows that modified canola fed to rats actually produced rats with a 16 per cent increase in the size of their livers, but this was not seen as necessary for further investigation. That is just the sort of thing that I would be inclined to say does need further investigation. Tell me why there is an enlarged liver. If you say that it is just because of other parts of the canola plant, please produce evidence of that for me. If I were the regulator, I would certainly want to ask that. How is the regulator going to satisfy themselves that the scientific evidence produced on behalf of an application for a licence is sufficiently rigorous and independent? What kind of criteria will there be for independent analysis of that research to test it fairly comprehensively? I am also interested in the fact that we were provided with the regulations in the course of our committee inquiry, and that was of great assistance. Quite often in this place, we are told that regulations will be written. In this case, we were able to say that regulations had been written and we were able to have a look at them, and that is a big advance from only being promised those.

I would also like to indicate a concern about the ministerial council. I am not sure that I know how that ministerial council will be constituted—who the ministers from the states will be. Will they be health ministers or environment ministers or some of each? If, for example, the proposal for states to have the capacity to make decisions on their own behalf is going to depend on a decision by the ministerial council or a principle proposed by the ministerial council, I need to know how soon that is going to happen and who the ministers on the ministerial council will be. Equally, I would like to know a bit more about the intergovernmental agreement. Some of those things still seem to be in the pipeline or not clearly defined. It may be that I have missed the final definitions of those things, and if I have, please accept my apologies. But I do believe that some of this is still to be finally decided or acted on, and that is of concern in such an important area.

Finally, I would like to again thank the people involved in the committee, from the independent office, the department and the minister’s office to the secretariat, whose names I have already put on the record, and my colleagues. It has been a very important and very interesting committee inquiry into a piece of legislation that has been long awaited. One of the things that is clear is that everybody wants the regulator and wants the regulations. Everybody wants the police or the supervisors to have the power to ensure that licence conditions are being maintained and to have the power of significant penalties if people breach those guidelines. Lines from Aventis like ‘we would have behaved differently’ if there had been a regulator worry me a whole lot. I would like to think that companies would have behaved in a most ethical way with or without regulators. (Time expired)

Debate (on motion by Senator Kemp) adjourned.

NOTICES Presentation

Senator CARR (Victoria) (8.57 p.m.)—by leave—On behalf of Senator Bolkus, I give notice that, on the next day of sitting, he will move:

That the Native Title (Right to negotiate — Alternative Provisions) (Western Australia Laws about Alternative Provision Areas) Determination 2000, made under paragraph 43A(1)(b) of the Native Title Act 1993, be disallowed.
Second Reading

Debate resumed.

Senator HARRIS (Queensland) (8.58 p.m.)—I rise to contribute to the debate on the second reading of the Gene Technology Bill 2000, the Gene Technology (Consequential Amendments) Bill 2000 and the Gene Technology (Licence Charges) Bill 2000 and, in doing so, would like to congratulate Senator Crowley on her chairing of the Community Affairs References Committee inquiry into the Gene Technology Bill 2000. I also congratulate the staff on the magnificent job that they have carried out in assisting Senator Crowley and the other senators in that inquiry. As everybody has indicated, this legislation has been long awaited. Gene technology, to some degree, can be compared with the IT industry in that the industry almost has the capacity to outstrip the resources of a government to regulate that industry. The gene technology industry is most certainly a prime example of that.

There were various areas of concern raised during the Senate inquiry, but I think one of the major areas raised was the rights of the states. As we travelled around, we became more aware that the same concern was being expressed by local governments and people who lived within the areas of local governments. I believe that the bill needs an assurance. It needs to be able to convey to those people that, as residents of that area, as taxpayers and as people who are supporting their local communities, they have rights that should not be overridden by a company coming in to run genetically modified crop trials or broadacre planting.

The other area that I believe needs to be strengthened in the bill relates to the Gene Technology Regulator—whether that is singular, as the bill proposes, or whether, as it is proposed to be amended, it is a group of three people. There must be very clear, defined rulings within the bill that will stop what we call the revolving door, which we see in some government departments. This is one accusation that has been levelled very strongly overseas, in particular in the United States, at the Food and Drug Administration. They have a history of industry being able to walk into substantially influential positions within government departments and, in doing so, skew the determinations of those government departments in favour of industry.

Senator Crowley raised the issue of genetically modified trials being carried out in laboratories, and she implied that she may not have too many problems with that. I do not share Senator Crowley’s confidence. I believe this is an area where we should be even more vigilant, where we need to be sure about the tests being carried out in these facilities. I would like to refer to one instance in New York. The mosquito borne West Nile virus that devastated New York last year has again been detected. It is speculated that the brain swelling virus escaped from the nearby Plum Island bio level 5 quarantine laboratory. So we do have situations where these so-called secure laboratories have in actuality had serious leakages.

We had the situation in Brisbane where at the St Lucia campus of the University of Queensland there was a substantial legionnaire’s disease escape from one of the facilities. It is proposed that there be established in Brisbane a level 3 laboratory for bioscience. Unlike the laboratory in America that the West Nile virus is believed to have escaped from—which is located on a remote island—the laboratory in Brisbane is being established on the university campus in the suburb of St Lucia. I took the time to go there and have a look myself to ensure that I had an understanding of the complexity of this problem. The laboratory itself is being constructed adjacent to the accommodation blocks in the university. It is right beside them. We have a footpath of about three metres and a normal roadway, and then on the other side of the road we have residential housing. There is absolutely no secure buffer zone around this facility. If it were to be used for experiments in genetic modification, we
would need absolute, 100 per cent security that none of them could escape.

There is sufficient scientific evidence that we need to act extremely prudently in relation to genetically modified organisms. I would like to quote a couple of comments from the Rowett Research Institute. One comment is by Professor Higgins, a Nobel laureate in medicine at Harvard University. He says:

Recombinant DNA technology ... faces our society with problems unprecedented not only in the history of science, but of life on the Earth.

Professor Arpad Pusztai of the Food, Gut and Microbial Interactions Group at the Rowett Research Institute says:

The fact is, it is virtually impossible to even conceive of a testing procedure to assess the health effects of genetically engineered foods when introduced into the food chain, nor is there any valid nutritional or public interest reason for their introduction.

Great concern has been expressed about the bovine growth hormone—which is, again, genetically modified—that is used in the production of milk and is strongly suspected to have connections with breast cancer. Probably the greatest threat from genetically altered crops is the insertion of modified virus and insect virus genes into crops. Certainly the widely used Californian mosaic virus is a potentially dangerous gene microorganism.

It has never been easy to introduce genes safely into cells. This involves attaching genes to viruses, with possible harmful side effects. Over time, extensive concerns have been raised by both the scientific community and the general public. In one instance toxins seeped from biotech corn, causing concern that the toxins might harm beneficial soil organisms and produce Bt-resistant superbugs. Other environmental damage that they might cause has not been fully assessed.

I have spoken in other debates about L-tryptophan, but there have been other medical incidents. I refer to the case of 18-year-old Jesse Gelsinger from Pennsylvania who died as a result of a reaction to a novel gene therapy experiment for a liver disease. Monkeys treated the same way died from the same reaction, but the research team proceeded with the human experiment. Other scientists have asked whether the Pennsylvanian team overlooked the risks in their eagerness to produce the world's first gene based cure. The corporate sponsors who invested tens of millions of dollars were also anxious to see that success.

Without government action to firmly reject them, there are great concerns about gene terminator facilities. Before people are lulled into a false sense of security, I must inform the Senate of a comment by Harry Collins of Delta and Pine Land Seed Co. In January this year, he said:

We’ve continued right on with work on the Technology Protection System (Terminator). We never really slowed down. We’re on target, moving ahead to commercialise it. We never really backed off.

The process of establishing a terminator gene is quite complex, and I would like to refer to a scientific document that will assist us in understanding it. One of the repressible promoter systems it discusses in detail in relation to the terminator gene is controlled by the antibiotic tetracycline. A gene that makes a repressor protein all the time would be put into the plant along with the recombinase gene that has a promoter engineered to be inactive by the repressor protein. Under most conditions, the repressor would interact with the recombinase gene and no recombinase would be made. The toxin gene would be blocked and no toxin would be made, even during seed development when the LEA promoter would normally be active.

To activate the toxin gene, seeds just starting to germinate would be treated with tetracycline—which, again, is the antibiotic. This would require immersing tonnes of seed in antibiotics. That would occur just before the seed is sold to farmers, which also raises concerns about people handling that seed. The tetracycline would interact with the repressor protein, keeping it from interfering with the production of the recombinase. The gene would then be capable of making the toxin but would not actually do so until the end of the seed development. Thus the next generation would be killed.

To accomplish the terminator effect, three engineering components must be transferred
into the plant’s DNA: a toxin gene controlled by a seed specific promoter, but blocked by a piece of DNA in between the promoter and the coding sequence; a repressor protein encoding sequence with a promoter that is active all the time; and the recombinase coding sequence controlled by a promoter that would be active at all times, except that it is also regulated by the repressor protein that can be overridden by the tetracycline. So the plants can complete their full development—they can grow the stem, leaves, flowers and then produce seeds—and, at the right time, the terminator gene will turn on and kill the seeds.

So we have the situation where gene technology has the ability to affect the production of food worldwide. For the first time we will see companies, through the use of gene technology, being able to control the production of food—and I believe that is immoral. I believe that gene technology should be used for the benefit of man: to promote greater production and for that production to benefit mankind; for all of those plants to be freely available, irrespective of whether a person wants to keep seed from a crop and replant it or, as is quite often done outside the area of gene technology, to improve the lines through the breeding process. But nobody would hold the commercial ownership of the base product, the base seed. People may well have control and ownership of a process, but that food must remain available for mankind and not fall into the hands of a very, very small group.

The other side of the terminator gene, and also the possibility with gene technology, is to splice into the seed a piece of DNA that will only be switched on by a certain fertiliser. So we have the ultimate in control. We have the situation where the seed can be controlled and it cannot be reused. Also, we have the situation where the seed can be controlled to the point where it will not grow unless you buy the appropriate fertilisers that are associated with that piece of DNA that has been inserted into that seed. Gene technology does have the ability to provide for the human race enormous benefits relating to medical advances—and I believe that that is very appropriate. But I have distinct and extreme concerns about gene technology being used to control the food sources of the world.

Senator EGGLESTON (Western Australia) (9.18 p.m.)—Senator Harris has just made a speech in which he has outlined some of the problems that might occur with genetic modification and gene technology. And it is true that it is possible for adverse effects to occur, using genetic modification and gene technology. But the purpose of this bill really is to regulate the gene technology area so that no adverse effects can occur which will affect the Australian population.

Genetic modification has been around for a very long time. It is not anything new. Over the centuries, men have bred beasts in farms that have produced either better meat or better wool, or had a greater quantity of meat; and those animals, because they had a preferred outcome, were selected for breeding. So different species or different breeds were developed which had a positive use for the human beings who were farming. The same applies to plants. Over the years better forms of wheat have been developed, the tomato was brought from South America and many different kinds of tomatoes were developed in Europe. The same applies to the potato and goodness knows to how many other plants—and flowers also are an example of that. The Dutch progressively developed the tulip and other plant breeders have developed other flowers because of genetic features, which meant that they were more attractive.

So regulation of the genetics of both plants and animals has been around for a long time. I suppose, in some ways, natural selection is an example of that too. This is not something new. A lot of people seem to fear genetic technology. I think that very often that fear is irrational; it is fear of the unknown, and it shows a lack of understanding of science.

But what we do have to accept is that sometimes there can be adverse outcomes, and the object of the Gene Technology Bill 2000 is to protect the health and safety of the Australian community and the environment from risks posed by, or as a result of, gene technology. The principal purpose of this bill is to create the Office of the Gene Technol-
ogy Regulator. That will be a statutory office, with a significant degree of independence, akin to the Taxation Commissioner and the Commonwealth Ombudsman, and will be appointed by the Governor-General, with the agreement of the majority of Australian jurisdictions. This office will have a number of functions that will work to protect, as I have said, the Australian community and the environment from risks posed by, or as a result of, gene technology.

The bill encapsulates a cautious approach to GMOs. In no way could the bill be accurately described as being a ‘green light’ for GMOs. Rather, in a way, it sets a standard for the rest of the world, in fact. The Gene Technology Bill ensures that any risks associated with the technology are comprehensively assessed. The regulator is required, through this legislation, to actively seek and take into account a very wide range of community views.

Importantly, this legislation forms part of a national regulatory system which will ensure comprehensive coverage of all activities with all GMOs in Australia. It has been developed in close consultation with the states and territories and represents our best chance ever of covering the field. Given the important role of the states and territories in this area, their involvement in the legislation is clear and explicit. The regulator can never— and I repeat: never—release a GMO into a state or territory without first seeking the advice of that state or territory on risks. This would include any unique risks posed by a GMO to a particular geographic region within a state or territory. The bill then provides that the regulator must take this advice into account before preparing a draft decision on the GMO application. The draft decision is then provided to the state and territory governments, as well as the general public, for further comment. In this way, the bill ensures that the concerns of the states and territories about GMOs are taken into account before any release of a GMO occurs. Of course if the state, territory or any other party identifies risks that cannot be managed, the regulator would refuse to approve the release of the GMO. Even when a GMO is approved for release, the regulator can set stringent conditions relating to the management of the GMO, ranging from up-front insurance to limitations on where the GMO can be released to requirements to limit any gene flow.

The bill provides an additional level of assurance for states and territories in that they can appeal a decision of the regulator to the Federal Court. If the regulator has failed in his legislative duties to either seek advice from a state or territory or take this advice into account, then that appeal can be sustained. Of course states and territories are not alone in their interest to protect the health and safety of people and to protect the environment. The legislation also ensures that the regulator has advice from an expert committee—the Gene Technology Technical Advisory Committee. This committee will be made up of experts in a range of fields including microbiology, virology, biochemistry and ecology. Importantly, this expert committee also includes experts in public health, risk assessment and occupational health and safety. While each of the members of the scientific committee will bring the views of their communities to the table, added assurance is provided by the inclusion of a layperson on the committee—someone who has a commonsense point of view about the issues put before the committee. This is only one of the many opportunities for the community to provide advice to the regulator about any risks posed by GMOs. For each and every application involving intentional release of a GMO into the environment, the regulator will also be required to call for public submissions through advertisements in newspapers throughout Australia. People on the regulator’s mailing list will also be notified through direct mail, and advice will be included on the regulator’s web site. Without doubt, this represents an exceptional level of consultation. It is unrivalled in comparable regulatory systems in Australia. It is unique internationally. It is a system that truly reflects the desire of the Australian community for the regulation of GMOs to be open, transparent and accountable.

Ethics has been another issue of particular concern to individuals and organisations consulted in the development of the bill.
People were keen to see the same regard paid to ethics in the area of gene technology as is applied under the National Health and Medical Research Council for human and health issues generally. Recognising this, the legislation establishes the Gene Technology Ethics Committee, modelled on the Australian Health Ethics Committee of the NHMRC. The ethics committee will consult widely with the Australian community. It will examine international precedents for dealing with ethics issues in relation to gene technology. It will advise the regulator and the ministerial council for gene technology on ethics issues. Importantly, the ethics committee will be able to advise on matters which should be prohibited under legislation on ethics grounds. These prohibitions will be reflected in policy principles issued by the ministerial council which the regulator will not be able to act inconsistently with. The committee will also be able to advise on more general guidelines for the conduct of research involving gene technology. This ensures that gene technology research is conducted in a considered way, having due regard to ethics issues just as human health issues are subject to stringent ethics guidelines.

Another unique feature of the legislation, comparative to regulatory systems for gene technology in other countries, is the standing that the legislation provides for its community consultative group. To the best of my knowledge, the legislation sets a world first by establishing a community consultative group in law. The group will play an ongoing role throughout the life of the legislation, providing pivotal advice to the regulator on key issues, including policy principles and guidelines. Drawing on the breadth of experience and knowledge envisaged for this group, the regulator will look to it for advice on education initiatives, research priorities and consultation with the broader Australian community. It has been suggested in some quarters that the community consultative group should be consulted on individual applications received by the Gene Technology Regulator. This approach would not only compromise the scientific integrity of the regulator’s decision making process but would distract the committee from the important role of providing strategic, forward thinking policy advice on the direction, focus and effectiveness of the regulatory system. So I am sure all senators can see that the object of the bill—which, I repeat, is to protect the health and safety of people and to protect the environment by the identification of risks posed by or as a result of gene technology and by managing those risks through regulating certain dealings with GMOs—will be met, and I urge senators to support the bill.

Senator GIBBS (Queensland) (9.29 p.m.)—The issues at the heart of the Gene Technology Bill 2000 are at once both complex and simple. The complexity rests in the intricate nature of the scientific and technical issues surrounding genetic engineering. It is a minefield of new terms and new scientific concepts. It is a minefield of claims and counterclaims about the benefits and dangers of genetically modifying organisms. But off-setting those complex scientific issues, off-setting the claims and counterclaims, is the single issue we need to focus on during this debate: that issue is balance. Like so many other issues that arise in this place, our duty is to balance competing interests. There can be absolutely no doubt that genetic engineering has already provided tremendous benefits to medicine, agriculture and a whole range of other scientific endeavours. There is also no doubt, however, about the level of concern over the possible harm that genetic engineering may do to our environment. There can be no doubt that there exists a real potential for genetic engineering to cause harm. The public is very wary of the technology, and with just cause.

I am not going to champion either side of the debate, although I will address issues raised by contributors on each side. I am not about to suggest that genetic engineering will solve all of the world’s hunger and medical problems. But nor am I going to suggest that genetic engineering will usher in the apocalypse. It clearly will not. In saying that, however, it is important that we recognise the clear and legitimate concerns surrounding these issues. Indeed, that is what this bill is all about. The aim of the bill is to establish a legislative framework to regulate experi-
mentation on and distribution of genetically modified organisms, or GMOs. As Senator Forshaw said the other night, this is one of the most important bills that is going to pass through the Senate and we really must get it right.

Concerns over genetic research increased during much of the 1990s, particularly after the outbreak of mad cow disease in Britain. That event is probably the best known example of the public being let down by various reassurances from scientists and, indeed, politicians. That issue and many other legitimate concerns are why the public is very sceptical about this technology. Australians are well known for being quick to take up new technology. We are happy to try out the latest gadget that purports to improve our everyday lives, and we rejoice in new medical treatments that treat various diseases. The public is, in part, quick to take up these new applications because they are confident that the safeguards these technologies have had to pass are stringent enough to protect them. We need to generate a similar level of confidence in the public regarding GMOs by ensuring the body that regulates them is given sufficient power and resources to do its job properly.

The Senate Community Affairs References Committee held an inquiry into this bill. The report entitled *A cautionary tale: fish don’t lay tomatoes* was tabled last week. I would urge all senators who either were not involved in the hearings or have not had a chance to read the report to do so. Anyone who reads it, whether you agree with every word of it or not, will quickly get an understanding of the depth of feeling surrounding this issue. During the inquiry we heard evidence from people who were strongly in support of gene technology and testified to benefits in health, agriculture and food technology. We also heard evidence from those strongly opposed to this technology. In the report the committee made more than 30 recommendations about how GMOs could be safely introduced into the Australian environment. Many of our recommendations regarded the establishment and operation of the Office of the Gene Technology Regulator, which is referred to as the regulator. The OGTR is the administrative body that would be responsible for regulating the introduction of GMOs. The recommendations also covered a wide range of issues concerning an insertion of a precautionary principle into the bill and the establishment of a public education process regarding genetic engineering.

The issue of a precautionary principle is an important one. Given the potential uncertainties surrounding gene technology, many environmental groups argued that the regulator should apply the precautionary principle during the decision making process. The Labor Party is moving an amendment that a precautionary principle be inserted into the bill. It would read:

... provide that where there are threats of serious or irreversible harm to human health or environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent harm to human health or environmental degradation.

Adding those words to the object of the act would see some key direction given to the regulator about how to apply precaution when considering licence applications. There is a precedent for such a move. The words are quite similar to ones that are already included in the Environment Protection and Biodiversity Conservation Act 1999. That act was recently passed by this parliament and supported by the present government.

The need for strong regulation is quite clear. Last year the Interim Office of the Gene Technology Regulator was established to work in conjunction with the Genetic Manipulation Advisory Committee until the proper regulator is up and running. The interim regulator is, unfortunately, mostly an administrative body that has little real power. It relies on companies and third parties self-reporting any alleged breach of procedures. The inefficiency of the interim office under its original set-up is demonstrated by two cases.

On 25 March this year an article in the *Melbourne Age* reported the dumping of genetically modified canola plants contrary to GMAC recommendations. The paper also reported what seemed to be a problem with the size of buffer zones. It was subsequently shown that the interim regulator was made
aware of the allegations 11 days before the newspaper report. The final wash-up found that the company, Aventis Cropscience, breached five GMAC recommendations. Yet it did nothing. The interim regulator did not contact Aventis until the day the news appeared. The interim office did not ask the journalist or the person who initially raised the story to provide statutory declarations concerning the incident. In its submission to the Senate inquiry, Aventis claimed that the GMAC and the interim regulator were aware of previous breaches and only took action because the issue became public. These are serious allegations and the interim regulator denied them to the committee. The gross disregard for the GMAC recommendations by the company is extremely worrying.

A second breach was made public on 25 July—again unfortunately in the media. The breach resulted in GM cottonseed being mixed with 69 tonnes of traditional seed. The company responsible, Monsanto, reported the breach to the interim regulator on 21 June. Yet again, however, the public had to wait until the story appeared in the media—this time the Sydney Morning Herald—before they were informed. More worrying was the fact that Monsanto reported to the inquiry that the GM seed might have already found its way into the Australian food chain. These two instances demonstrate the need for an open and full audit of all GM field trials currently being undertaken. It is the only way we can identify other breaches and assure the Australian public that the breaches will be dealt with appropriately. It also demonstrates the need to have a very strong regulator in place.

As a result of those issues, the opposition believes that a requirement for full transparency regarding field trial locations should be made explicit in the bill. As it stands, it is up to the regulator to decide whether information that applicants may consider commercial-in-confidence be made public. The Labor Party believes that information regarding field trials should be made public. In conjunction with that we are also calling for the introduction of stiff penalties for people who use this information for unlawful purposes, particularly if that includes intentionally damaging field trial sites.

One other major recommendation made by the committee in its report and an amendment proposed by the Labor Party is the establishment of the OGTR as a statutory authority of three people rather than a single person. The regulator will be making some particularly important decisions affecting the health of the population and the integrity of our environment. In reaching any decision, the OGTR will regularly be required to consider conflicting reports and evidence based on various scientific conclusions. We believe that having three people instead of one in the role would provide greater assurance of the regulator’s independence from political, industry and consumer group pressures.

I am sure government senators are going to stand up in this place and tell us that these amendments are unwieldy and that they will lead to what Senator Knowles last week called a ‘brain drain’ of Australian scientists. The issues are so finely balanced at the moment that it is warranted for us to be particularly cautious. What the government does not seem to realise when making comments such as these is that it is crucial that scientists and industry take the public with them. The government needs to realise that, for this technology to ultimately be a success, the public needs to have confidence in it. We do not get it right now; the public will never have confidence in this technology. Surely it pays to be cautious now and, as the sophistication of this technology grows and the safety fears lessen, we then may be able to change some of the restrictions.

One of the other important issues raised at the inquiry was cost recovery. If the government is worried about this brain drain, then it could do a lot worse than to properly fund the regulator. As the bill currently stands, it is proposed that the Office of the Gene Technology Regulator be funded through 100 per cent cost recovery. The bottom line of this is that those who use the office have to pay not only for their application to be processed but for all costs of running the office as well.

There were two particular areas about this arrangement that concerned the committee. The first was a concern for the body respon-
sible for protecting human health and environmental safety being compromised by receiving funding solely from the groups it is supposed to be monitoring. There was a general feeling that, if this occurred, funding priorities within such a body would become skewed to supporting the requirements of the payer rather than towards the needs of the community. The second area of concern was that 100 per cent cost recovery would stifle research. Many scientists told the committee that large companies would take their research out of the country if the system adopted here was on a user-pays principle. They would conduct the research overseas and only return here to sell the GMOs.

We were also told that the research conducted by smaller companies, and indeed many educational institutions, would drop significantly if they were forced to fully pay the OGTR’s costs in relation to any application. It is essential that Australia participates in the scientific endeavour surrounding genetic engineering. Hand in hand with that is the need for an independent and open regulator to monitor genetically modified organisms. We need to ensure that Australian scientists can participate in the research that is properly regulated. The University of Queensland estimates that complying with full cost recovery would cost them $100,000 a year. That is money they cannot afford, and it could seriously curtail the research they undertake. The opposition is moving an amendment to defer cost recovery until the Productivity Commission inquiry into cost recovery arrangements of government regulatory, administrative and information agencies makes its findings public in August next year. When that report is available, the ALP will consider the findings carefully and will support only a cost structure that does not put the integrity of the regulator or Australia’s biotechnology industry at risk.

To conclude, let me reiterate this point: this process is something the public needs to have confidence in. We believe that there is a lot of room to improve this bill, and we hope the government supports those endeavours. Genetic modification of organisms is here to stay—some might say unfortunately, some might say fortunately. That is a fact we must face. In his book *Genome*, author Matt Ridley estimates that, by the end of this year, 50 to 60 per cent of the crop seed sold in the United States will be genetically modified. As he says:

For better or for worse, genetically modified crops are here to stay.

Our job is not to try to put the genie back into the bottle. It is too late for that, and that approach would undoubtedly rob us of numerous scientific benefits over the coming years, even if it could succeed. Our job is to ensure that the process for release of genetically modified organisms is safe. Like the scientific revolution that has prompted it, this bill is one of the most profoundly important issues confronting us. We need to do more than just ensure that the health of the public and our environment are protected. That is obviously our major concern, but in doing that we need to do our best to ensure that the public has confidence in the whole process. If we fail in either of those goals we will create a climate of scepticism, fear and anger surrounding this promising technology for years to come.

Senator Brown (Tasmania) (9.48 p.m.)—I congratulate Senator Gibbs on her speech. The Labor Party and the Democrats have moved to go much further than the government in protecting the public interest in this matter. I will be very interested to look at the amendments they bring forward, because we have a very heavy responsibility as the parliament of this country to ensure that this technology is used in an extraordinarily cautious way so that the benefits that are undoubtedly able to come though genetic knowledge and technology come to the community without the extraordinary damage that is also threatened by the unwise use of gene technology. As I said in my own report at the end of the Senate committee’s findings on genetic technology, we should remember that the protection of the health and safety of people and the environment is an important object of this bill and that:

Once released, self-replicating GMOs offer no possibility for recall. We have an incumbent responsibility to ensure that in this nation no gene, certainly no self-replicating gene, is released into the en-
environment without being contained and without us knowing that it cannot cause detriment to the environment or to the people of this nation. That is a very heavy responsibility and at the moment there is no sign that we are prepared to meet that goal.

The object of the Gene Technology Bill 2000 from the Howard government is:

... to protect the health and safety of people, and to protect the environment, by identifying risks posed by or as a result of gene technology, and by managing those risks through regulating certain dealings with GMOs.

On page 2 of the bill you will see that the very next clause gives the regulatory framework to achieve that object:

The object of this Act is to be achieved through a regulatory framework which:

(a) provides an efficient and effective system for the application of gene technologies; and
(b) operates in conjunction with other Commonwealth and State regulatory schemes ...

The object is to protect the people and then the way in which that is going to be achieved has nothing to do with protecting the people. Suddenly, the object disappears in the application, which becomes an 'efficient and effective system' for allowing gene technologies to be applied. One sees in this the extraordinary power of the multinational corporations over this government. It is their service that this bill is brought into being for—not the people of Australia but for the interests of the multinational corporations like Monsanto and Aventis which are currently utilising the world as a giant laboratory. In Australia, for example, we are seeing these corporations plant vast acreages of genetically manipulated crops, not least of which is the canola crop, which is used in margarine, cooking oils and so on. They are classed as experimental crops but they are in fact seed crops for the next season in the Northern Hemisphere. They are genetically modified commercial crops not to do with experimentation but to do with forwarding the commercial interests of these corporations.

My home state of Tasmania above all depends on its clean green image for its commercial wellbeing into the future and for the creation of jobs. We have had the Liberal Party very belatedly but quite rightly decide that salmon imports should not be allowed into this country because of the danger of bringing in diseases which would damage the Atlantic salmon industry in Tasmania, which was set up as late as 1986, and in the last couple of weeks a concern about fire blight from New Zealand getting into this country through the Howard government’s action in—

Senator Calvert—Rubbish! It’s AQIS that make the decision. They are an independent body, Bob. Come on.

Senator BROWN—We have got a senator opposite saying that the Howard government is incapable—

Senator Calvert interjecting—

Senator BROWN—Indeed, we have got Senator Calvert opposite saying that his own government is incapable of preventing the potential—

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Order! Senator Calvert, withdraw those comments in relation to Senator Brown.

Senator Calvert—I accept that you find them unparliamentary. I withdraw, Madam Acting Deputy President.

Senator BROWN—Thank you, Chair; and so he should. But the point I was making on the issue of fire blight is that Senator Calvert’s government, headed by Prime Minister Howard, has allowed our country to become open to the import of New Zealand apples, and New Zealand is a place which is infested by fire blight.

Senator Calvert—Rubbish! No decision has been made. Tell the truth.

Senator BROWN—They don’t like that, but the Tasmanian Liberal Party supports a regime for the release of genetically modified organisms in our state. The problem, you see, is that they always come to the recognition too late that they had the power to act prudently, to act with precaution. But they do not use it, because they do not have the brains to be able to think in the long term, they do not have the nous to be able to work out the simple logic of the danger that these entities bring to an economy like Tas-
mania’s, and they certainly do not have the wherewithal to understand that Tasmania’s future—and, I believe, this nation’s future—is very much enhanced by the potential of being not only clean and green in its produce but also able to proudly label everything that comes out of this country as GE free.

If we look at the markets to which our produce goes—in particular, Europe, the Middle East and Asia, and not least Japan—we see that there is a growing resistance to genetically modified foodstuffs and beverages being allowed into those markets. In the last couple of weeks we have seen an extraordinary kerfuffle in both the United States and Japan about the contamination of corn products by genetically modified corn. It was supposed to be GE free and was found to not be. This is because the whole way of distributing crops around the world is not set up to divide the genetically free from the genetically manipulated. It is recognised—and this was made clear to the Senate Community Affairs References Committee, which looked into this matter, although Liberal senators opposite would not have the foggiest about this—that it is extraordinarily expensive to separate out genetically natural crops from genetically manipulated crops.

What is going to happen in the future? The crops will be brought into a central clearing house, as they have been in the past: the genetically free will get contaminated with the genetically manipulated, and the laboratories will pick that up. When they do so, we are going to be in the same situation as the United States and Canada have been recently where whole shipments get turned back from European or Japanese ports. Who pays for that? Is it Monsanto? Is it Aventis? Is it these big corporations which dictate government policy? Of course not. It is the other farmers who are trying to keep their crops commercially acceptable. They end up paying the penalty for the contamination which comes from the big corporations which do not take the risk.

I say again here that it is very incumbent upon people like my Tasmanian Liberal Senate confreres opposite to stop and think about this, because they are in favour of genetically engineered crops being unleashed in Tasmania. I oppose it; they are in favour of it. Let us be very clear about that. That is going to be shown in the next few days in this important debate when the Greens, the Democrats and the Labor Party move amendments to this legislation which are going to make it very much stricter in terms of the release of genetically modified organisms which threaten our organic and our clean green produce—not just in Tasmania but around the country. We are going to find that Senator Calvert, Senator Abetz and other Tasmanian Liberal senators are going to vote against those amendments. They are actually going to vote against them and therefore against Tasmania’s interests and the interests of this country as a whole. I repeat: once released, self-replicating GMOs offer no possibility of recall.

Senator Calvert—We can’t be consistent with you. You’ve voted against everything that is any good for Tasmania since you’ve been here.

Senator BROWN—Senator Calvert over there is interjecting. Madam Acting Deputy President, I am not going to be diverted by that. As you know, it would be unparliamentary to respond to his unparliamentary interjections. He is a fellow who supported the Franklin Dam, which would have had Tasmania an extra $1 billion in debt by now.

Senator Calvert—Madam Acting Deputy President, I raise a point of order. Senator Brown is saying I supported the Franklin Dam. I was not even in parliament in those days. Would you just bring him back to the subject and tell him to stop telling untruths about what is happening on this side of parliament.

The ACTING DEPUTY PRESIDENT—That is a debating point. There is no point of order.

Senator BROWN—Thank you, Madam Acting Deputy President. That is a very fair ruling. As I said, Senator Calvert supported the Franklin Dam.

Senator Calvert—I was not even in parliament.

Senator BROWN—He will not come out and deny that now. He likes to try to skedaddle around it because he knows he was
wrong—as does Senator Abetz sitting in front of him. They would have piled up the debt in Tasmania, shaved off jobs and destroyed the future prosperity of the West Coast town of Strahan—built up the debt and done down the jobs—but they got beaten by the Greens, fortunately. As far as Tasmanian prosperity is concerned, what a good thing that was. They now want to go quiet on that, but I am not going to let them get away with it. Now we are here tonight in a situation where the same cabal of antediluvian thinkers wants to unleash genetically manipulated crops on Tasmania. What a detriment to our clean green image in Tasmania!

I am going to test Senator Abetz, Senator Calvert and the old brigade over there—the 1980s thinkers—by putting forward some amendments. The first amendment is a very pro-Tasmanian one—the amendments are going to apply to the whole country and they are good for the whole country—and it is for a five-year freeze on genetically modified organisms being unleashed into our environment. We see in the Northern Hemisphere chain stores that sell food going GMO free. We understand and we know, if we have read the literature—and some of the members opposite will not have done that—that markets are closing down to genetically modified organisms. What is more, there is a premium of 17 to 25 per cent on genetically-free organic produce. This is just the sort of thing Australia—not least Tasmania, but the other states as well—ought to be aiming at. So I will be putting forward that five-year freeze and tempting the members opposite to join me in making sure that we do not allow our environment to be opened up to these genetically modified organisms until we have had time to assess what is happening elsewhere in the world.

**Senator Abetz**—What happened to the poppy growers?

**Senator BROWN**—There you are: Senator Calvert interjects, ‘What happened about the poppy growers?’ Two American corporations are tweaking his thinking on this, and let the home-grown, small family farms in Tasmania go hang. Let the poppy growers dictate whether or not Tasmania has GE-free status; let the corporate headquarters back in the US determine whether or not Tasmanian farm produce continues to have GE-free status and therefore a premium on world markets.

The second thing I will be testing these senators with is the biosafety protocol. This international protocol has been agreed by 130 countries and it will establish internationally agreed environmental protection measures for trade in GMOs and promote informed handling of GMOs to minimise the risk associated with oversight. It comes from the United Nations of course, and it is essential that Australia sign that biosafety protocol. I will be interested to see if the other Tasmanian senators—indeed all senators—are prepared to endorse that commonsense measure and support the Greens amendment.

The third amendment is very important and it concerns a state, territory and local government opt-out clause. I go further than the Democrats and the Labor Party in this. We are calling for local government to have an opt-out clause. Senator Abetz—Who is ‘we’?

**Senator BROWN**—Senator Abetz is talking about ‘we’. I think he wants to be included in the support for this clause for local government. It is a strong matter in Tasmania and indeed in all rural and regional Australia. I am very keen to see that Senator Abetz and Senator Calvert join the Greens in supporting empowerment of local government by giving it an opt-out clause if it does not want its municipality, its shire, to be an experimental ground for multinational corporations. I think we will find that both Senator Abetz and Senator Calvert—the only two coalition members in the Senate tonight—will join the rest of the government in selling out the right of local government and regional and rural Australia to make their own decision about staying GE free in this matter. But the Greens will put up this amendment, and we will see how the government performs.

Fourthly, we want a one-stop shop. We want this matter to be regulated, but we want it to be easy for all rural producers and indeed consumers to be able to go to the Office of the Gene Technology Regulator and see
what is happening in their area and how it applies to the various players. I doubt we will get Liberal government support for that. But this is a very important point: we are told by the corporations who pull the government influence on this—remember these are international corporations; they are not centred here in Australia—that GMOs are safe; they would not put them into our environment unless they were safe. I will be moving an amendment to ensure that when they do that they are insured; that is, that they are therefore able to pay the bill if it is found that they are unsafe—to the environment, to local farmers who want to be GMO free or to consumers. I draw to the Senate’s attention the evidence provided to the committee by the Insurance Council of Australia, which noted:

There is a lack of reliable loss experience history associated with genetic engineering and means for calculating of likely loss patterns. This absence of data inevitably promotes a fundamental doubt over the insurability of such risks.

Senator Abetz interjecting—

Senator BROWN—Let me paraphrase that for Senator Abetz, because he is having difficulty understanding this: that means insurance companies do not want a bar of GMOs. The Greens will move an amendment to require insurance. We will see if the government come to support that—of course, they will not. We have a follow-on amendment which requires genetically modified industries—the big corporations—to have a fund for recovery of loss and repayment of environmental harm. We have another amendment to ensure full site disclosure of all GMO dealings.

Senator Abetz interjecting—

Senator Calvert interjecting—

Senator BROWN—Will the Tasmanian senators opposite who are crowing, trying to interject in this speech, support the basic right of farmers, of local governments and of neighbourhoods to know if a GMO crop is being planted in their area? The Howard government—the Liberal and National Party senators opposite—will oppose that. What sorts of Australians are they?

There are other amendments which I could bring forward here. I am not going to—they will be brought up at the committee stage. But we will be testing not only the government but also the Labor Party and the Democrats to make sure that the regime that comes out of this legislation is the tightest in the world to protect our communities, our farmers and our consumers—everybody in this country—from the dangers inherent in genetically modified organisms, while we have support for the precautionary principle which allows the best of that technology to be applied, for community advantage, to such things as medicinal and medical advances.

Senator KNOWLES (Western Australia) (10.07 p.m.)—That was a pretty breathtaking 20-minute contribution. I have to say it was probably the most breathtakingly silly contribution on a very serious subject that one could ever wish to hear. It was breathtakingly silly not only because of some of the notions that were put forward by Senator Brown, which we have had to endure for quite for some time, but also because the Senate has just learnt that ‘we, the Greens’ will be putting up amendments to this bill. Senator Brown, I am absolutely mystified about this because, to the best of my knowledge, of the 76 senators there is no ‘we, the Greens’; it is you, and you alone. It is Senator Brown, and Senator Brown alone. Heaven only knows how much Senator Brown delays the proceedings of this chamber as one voice with a handful of votes from Tasmania. But here we go again, on a very serious piece of legislation—a piece of legislation that, incidentally, is wanted extensively throughout Australia. But Senator Brown is yet again the one to row the canoe the wrong way on the Franklin River or on any other river. It is unbelievable to think that this parliament cannot proceed with its business without Senator Brown coming in here and delaying proceedings as one person.

I am the first to admit he has a right, as one of 76, but it is interesting that he now presumes that ‘we’ have a right as one of 76. I do not know who the ‘we’ are.

The Gene Technology Bill 2000 is a very serious bill. Last week I spoke during the tabling of the report of the Senate Community Affairs References Committee on this
A number of things were emphasised at the time of the tabling of that report, particularly in the minority report which I signed with my colleague Senator Tchen. That minority report is an important document because it highlights the many positive, strong attributes of the Gene Technology Bill 2000; the attributes that ensure that it meets the needs of Australia at this point in time. That is why I think it is tragic that someone like Senator Brown can come in here and effectively talk through a hole in the top of his hat about something that has been widely considered and widely researched by so many people who know and understand this issue. I think it is important at this stage to emphasise how imperative it is that this legislation be put in place in a timely fashion. We have only a matter of days before the parliament goes into recess for the Christmas break. I think it would be very sad if Senator Brown purposely, but yet again, sought to delay this legislation, because, as I noted last week, the need for the legislation has been apparent for a number of years—apparent to all but Senator Brown—and this is our best chance yet of establishing an independent regulator in whom the community can have confidence.

I have been heartened to hear the comments of many senators since the tabling last week, because those comments, which echo my sentiment that this legislation must be enacted without delay, now are coming from some of the people in the Labor Party who previously thought that it might a good idea to delay this legislation. I am very pleased to hear that Senator Crowley has now come on board and does not wish to see it delayed. I am pleased that the Democrats seem to have firmed in this opinion over recent days, too, even though some of their contributions were fairly hard to follow. The move to implement the national regulatory system as soon as possible is certainly supported without equivocation by the states and territories. I would have thought that, as a states house, it is the role of this senate to implement something that is considered so important by the states and territories. I know that support is right across the country and right across the political divide. The premiers, including Beattie and Bracks, are looking to this Senate to pass the bill in this session. This will clear the way for the states to produce complementary legislation early next year, completing the national regulatory system and providing comprehensive coverage for GMOs throughout Australia.

It would be a mistake, I believe, to interpret our desire to see this bill passed as soon as possible as rushing the legislation in an ill-considered way. As acknowledged in the majority report of Labor senators on the Senate Community Affairs References Committee, this bill has been subject to commendable levels of consultation. As I mentioned last week, the consultation on this bill has been exemplary. Both the policy that underpins the legislation and the detail of the national regulatory system have been subject to extensive consultation over 18 months. Two rounds of consultation involving all capital cities and a number of regional centres have been valuable in ensuring the legislation is fully informed by the needs of the community.

Consultation has reflected the breadth and diversity of people with an interest in this subject matter, and that is where I am particularly critical of Senator Brown. He dismisses so much of this legislation as if he were the repository of all wisdom on this subject. Sadly, he is not the repository of all wisdom on the subject. Those who have that knowledge have been consulted very extensively. Groups involved in the development of this legislation have included environmental organisations, community groups, primary producers, manufacturers, producers of pharmaceutical products, the research and development sector and small business. Importantly, many individuals with no direct involvement in the use of the technology but with a keen interest in ensuring open, comprehensive and accountable regulation of GMOs provided valuable input. It is absolutely and utterly preposterous for anyone, let alone someone with Senator Brown’s track record in these matters, to come into this chamber and suggest for one second that there has not been comprehensive consultation with the people who count. It is just plain wrong of him to suggest that. That con-
sultation has meant that this bill is something in which we can have every confidence.

The committee’s report was tabled last week. In the minority report, I also emphasised the qualities of the regulator that will inspire confidence in the new system. I detailed the stringency of the risk assessment processes as set out in the legislation and the strength of the regulator’s powers to ensure ongoing compliance with the legislation. These are particularly important issues. The rigour of the bill should not be understated. This is a regulator with powers akin to those of the Australian Federal Police. I was interested to listen to the comments of Senator Gibbs tonight, who wants greater powers for the regulator. I was also interested to hear the comments of Senator Stott Despoja, who seems to completely overlook the powers the regulator will have. When I say that they are akin to those of the Federal Police, I mean that the regulator can conduct spot checks, enter premises, seize goods and, in short, do all that may be necessary to provide for the safe use of GMOs.

Why then would there be some people who say that the regulator does not have enough power? It is just ridiculous. Clearly, that is an emotive argument that is based on some preconceived idea and certainly not based on the actual words contained within the legislation. Of course, with powers this significant, it is imperative that this legislation includes checks and balances. There must be a clear line of accountability, and there is. This has been carefully factored into the legislation before the chamber tonight. The regulator must report openly and publicly to the Australian community, to the Ministerial Council on Gene Technology and, of course, to the federal parliament. State and territory parliaments will also track the operation of this regulator. So, once again, to say that there is no accountability, that there are no checks and balances and that the whole thing will run riot—as we have heard from some this evening—is just plain nonsense.

In essence, this legislation is neither about promoting the technology nor about condemning it. It provides neither open slather nor a moratorium—rather, it ensures that this technology can be used in a safe, careful and cautious manner after assessment by the regulator of all the risks. It is important that this legislation goes forward with the balance and objectivity that it currently contains. Australia’s research and development opportunities inherent in this technology must not be stymied by excessive regulatory control which delivers a de facto moratorium on research. Yes, Senator Gibbs was right; I did say last week that there were proposals put forward by some of the Labor senators—and, fortunately, not those with ultimate carriage of the legislation—that this legislation could cause a brain drain in Australia, and that is simply not so. The legislation will make sure that the research can continue and that people will not just go offshore, and that is a must for Australia. We cannot afford the luxury of having those people go offshore.

As a senator for Western Australia, I am fully conscious of the diversity of views and opinions in the community on the issue of GMOs. In Western Australia, the agricultural department, Agwest, is doing terrific research into GMOs which farmers—particularly cotton farmers—believe holds great potential. Under these gene technology bills, this type of research will be able to continue with appropriate control. Also in Western Australia, we have farmers interested in protecting the marketability of their genetically modified free crops. These bills have the capacity to address these concerns also. Therefore, the posturing of certain honourable senators in this place about that proposition and saying that it is not within the purview of the legislation is wrong.

Senator Brown—Not posturing, surely.

Senator KNOWLES—It is simply and utterly wrong, and for Senator Brown to suggest otherwise is quite misleading.

Senator Calvert—You’re being generous.

Senator KNOWLES—Yes, Senator Calvert, I may well be being generous in my language, but you fully understand the import of what I am saying. It is completely within the purview of any state to express concerns in that area and to have a decision made upon them. Why Senator Brown would
come into this chamber and say otherwise is totally beyond my comprehension.

Senator Brown—So you'll support my amendment.

Senator KNOWLES—There is no need for any amendment, Senator Brown. I do not know how to get it through your thick head. There is no need for an amendment because it is already contained within the legislation. The sad part about this is that Senator Brown clearly has not even read the legislation. Here we are debating the legislation in the Senate and debating a subject that has been widely discussed for over 18 months right across Australia and right across all the interest groups—and guess what? The only person who does not know what it means is Senator Brown. And guess what? He is the only person in this place who is going to hold it up.

Senator Abetz—Did he attend the hearings?

Senator KNOWLES—That is a good question as well. But, finally, in Western Australia we have a community who share the desire of all Australians to see a strong, independent regulator that can protect health, safety and the environment—and the sooner the better, quite frankly. So for anyone, let alone someone like Senator Brown, to be in here posturing about the environment is just ridiculous, because that is what this legislation is designed to protect as part of its overview and total impact. This bill has great potential to provide assurances for Western Australians and for all Australians. Quite frankly, the quicker the bill is passed the better. It is important to make sure that all honourable senators actually know the impact of it before they vote. We must make sure that the states are comfortable with it.

If, by any chance, we have some of these hare-brained ideas that are being put forward by way of amendment carried, goodness gracious me! It does not seem to matter to Senator Brown that that could put the whole thing at risk, that this has been negotiated with the states and that the states have signed off on it. Yet someone like Senator Brown decides that it does not matter, that we can just amend it willy-nilly, that we can just change the whole thing and nothing is going to happen. Something will happen and something will come unhinged. Senator Brown seeks to put all those negotiations at risk. He seeks to make sure that the whole system is undermined. Senator Brown does not want the system that the states want, that the people want, that environmental groups want, that researchers want, that even the AMA want and that everybody else, including the farmers, want. Isn't that clever? Therefore, he wants to make sure that we have to undermine the whole thing, send it all back to the states and start the whole negotiation process again.

Fortunately for the Senate and fortunately for the people of Australia, enough sanity will prevail, I hope, in this chamber with the aid of those on both sides of the political divide who have really sought to reach a sensible agreement on this legislation. It is important legislation. It is not legislation that can be treated so lightly and be thrown around, tossed around and kicked around like a football. It is important legislation. The government is exceptionally grateful for that type of cooperation from various people within the parliament, both in the Senate and in the House of Representatives.

The comments that many honourable senators have made throughout this debate, as I have listened to virtually all of it, have been most worth while. I think there is now a greater understanding of the need for the legislation. I think there is a greater understanding of the impact of the legislation. That is an important part of what we are dealing with here today. I certainly hope that this legislation will not be delayed in any way, shape or form. It has to proceed and it has to proceed as soon as possible. When we are now almost concluding the second reading debate, we proceed—

Senator Forshaw—Three minutes to go. You will get there!

Senator KNOWLES—Yes, I hope so. As we proceed into the committee stage, I am certainly hopeful that it will be dealt with expeditiously and that we will not have a particular senator holding the legislation up and doing a bit of grandstanding.
Senator Calvert interjecting—

Senator KNOWLES—It would be useful, Senator Calvert, if the truth were told in this entire debate. There have been some comments that are very misleading. I think it is very important to make sure that this legislation has swift carriage through the Senate and that we make sure that the states can act upon it sooner rather than later. They want to get the whole process into place, and we want to assist them in doing so.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Hogg)—Order! It being almost 10.30 p.m., I propose the question:

That the Senate do now adjourn.

Education: Funding for Government Schools

Senator TIERNEY (New South Wales) (10.27 p.m.)—I rise tonight to speak about the state schools bill which is currently being debated in this chamber. In particular, I want to raise the many misleading statements that are being made about what is perhaps one of the most important bills to come before the parliament this year. We are now at a critical stage with this, as we get towards the end of the committee debate and we get to the point where we have to make a final decision on this bill. We need to get this through as quickly as possible, because there are many schools out there trying to plan for next year and they need this funding to put that in place.

To show the size of this bill, it is a $22 million bill which will fund schools for the next four years and will shape the face of education in this country not only for the next four years but for many years beyond. Yet this bill has been held up by the Labor Party and by the Australian Democrats. It has now been on the table before this parliament for five months, yet neither the Labor Party nor the Australian Democrats can get their act together and get a final resolution to what must go through very quickly if the schools of this nation are to be funded next year and, more urgently, if the planning for the funding for next year is to happen in the many schools in this country.

I particularly want to address tonight the many ill-founded and ridiculous allegations that have been made about this piece of legislation, the first of which is the ridiculous claim that, because of this bill, the funding of non-government schools will be at the expense of the government schools. This is totally out of kilter with the facts about what is happening with this funding.

For example, in 2000, Commonwealth funding of government schools is at its highest level ever and, under this bill, it will continue. The coalition is currently spending $402 million more on government schools than Labor did in 1996—its last year in office—which is an increase of 26 per cent. If one looks at the very simple maths of what happens with funding in this country, one will find that the two million government school students in this country are supported by an annual budget of $13 billion and the one million non-government school students are supported by public funding of about $3 billion. So the non-government schools are given less than a quarter of the funding that the government schools receive, but of course more than a quarter of students in this country are in non-government schools.

Those very simple maths show where the balance of funding lies. It is that way because—and only because—parents who send their children to non-government schools support those schools massively through the payment of money from their own pockets. Not only do they pay fees at very high levels, but they also pay taxes that fund government and non-government schools. They are paying more than their fair share. One of the things this bill will do is recognise the sacrifice made by those parents. I will explain how it does that in a moment. The bottom line—a cut-through piece of fact—in this debate is that, if the private school parents of this nation did not contribute any fees, we would have to find another $2 billion in public money—from the budget—to make up the shortfall. If we did that, we would not have that money to spend on public schools, hospitals, roads or police. So let us put into perspective where the balance of sacrifice lies.
Parents who choose to pay higher fees at non-government schools are easing the burden on governments who can then use the money saved elsewhere. This legislation recognises what private school parents are doing by identifying much more accurately their socioeconomic level or their capacity to pay. In so doing, we are recognising the sacrifice of these parents. We use what we call the ‘socioeconomic status’ of the parent groups. This SES score for the so-called ‘rich’ schools shows that parents come not from the rich end of town necessarily but from a very wide range of income groups, and include, for example, many farmers who have fallen on hard times but who still make a personal sacrifice to send their children to the school that they believe is best for them.

The current funding system, the now discredited educational resource index, was set up by the Labor government. It is discredited because no-one—not the schools, the Labor Party or the Australian Democrats—currently supports that system; so one wonders what this debate is about. That system is now too complex, too unworkable and too unfair and, on that basis, it will be scrapped completely. I will show what was wrong with the old system. For example, if parents raised extra money, they were punished for doing so because, under the ERI, they would lose government funding—if they raised money, the government would take it away by giving them less public support.

Under the Labor ERI system, schools such as Warwick School of Total Education in Queensland was placed very unfairly in category 1. Under Labor’s system, this category was supposedly for so-called rich schools, but any close look at the Warwick School of Total Education in Queensland will reveal that it is certainly a low fee, low income school. In fact, many of the 61 schools that were classified as category 1—the so-called richest schools in this country—were certainly not deserving of that label. The ERI system set up by the Labor Party is outdated and fundamentally flawed. Labor knows this and now it is trying to mislead the public with outrageous claims about the new, much fairer SES system.

One example—it is a flashpoint in this debate—is the King’s School, which is receiving a funding increase. Some might ask: why is that happening? Under Labor’s ERI system, funding levels for such schools decreased significantly over the last two decades. However, Labor does not tell us that, many years ago, the King’s School was funded by the federal ALP government at a much higher level than is proposed under the current government’s system.

Senator O’Brien—We fixed it and you are putting it back.

Senator Tierney—Let us look at the figures. How much public funding does the King’s School get towards its total bill? Does Senator O’Brien know what that figure is? It is 32 per cent. Where does the other 68 per cent come from? It comes from the parents and from other sources of income. Is it really fair that that level of funding is so low? Labor provided a higher level many years ago but it has let it run down: it has politically interfered with the ERI and let that category’s money slide.

As the new SES system demonstrates, all private school parents are not wealthy. In this debate we have made a comparison with funding in the public school system. Under this government, funding for public schools in this country has increased in the last year. People criticise us for putting up funding for private schools, ignoring the fact that we have also increased it for public schools by five per cent. What has the Carr government in New South Wales done by comparison? It has increased funding by 1.9 per cent compared with our five per cent—that shows its commitment to education. So who is underfunding public schools? It is the ALP in states such as New South Wales. If one compares what has happened over the last few years, one will find that the federal government has put up funding for private and public schools while the states’ performance—particularly the Labor states—in that regard has been quite woeful.

Information Technology Outsourcing

Senator Lundy (Australian Capital Territory) (10.37 p.m.)—I rise tonight to make comment on the fact that, for the first time
ever, the coalition government has confessed to making a mess of the IT outsourcing initiative. In a public statement today, the minister, John Fahey, announced the intention of the coalition to conduct an independent review into the IT outsourcing program. In this announcement, the government makes it clear that it would like the implementation risks to be the focus of the review, including identification and assessment of those implementation risks. In all my experience in looking at the IT outsourcing program, that sounds remarkably close to establishing a business case. I would like to remind senators that it was back in 1997 that the original cabinet submission was leaked and it was found that all of the agencies, excluding the Department of the Prime Minister and Cabinet and the Department of Finance and Administration, had assessed and decided that the IT outsourcing program was a very bad idea and not in the interests of effective information technology management. Nonetheless, the program proceeded—and today we are witnessing one of the most significant backflips ever performed on behalf of a government.

Consistently, both in this chamber and in the other place, we have heard Minister Fahey and coalition representatives stand up and tell everybody just how good this program is, how much money is being saved and how much benefit local IT industry is getting. Today, they are walking away from that. Very clearly, by announcing an independent review, the coalition is in damage control.

I would like to remind the Senate that it was only in October this year—in fact, I think it was a few months earlier—that the Australian National Audit Office released a comprehensive inquiry into the first three tenders let under the IT outsourcing program. That report was comprehensively damning of the IT outsourcing program to date—so much so that the government has been unable to continue with its program of blind rhetoric that everything is going okay.

The ANAO inquiry found that a number of things were going wrong with the IT outsourcing program—including the promised savings not being able to be achieved; including concerns about the protection of privacy of citizens’ information handled by the external service providers, or vendors. There were also grave concerns about the impact on local industry and opportunities for Australian IT companies. This is a particularly pertinent point, because this week we have heard so much from the government about its commitment to the information and communications technology sector and yet, on the other hand, we hear out in the industry that this very program is doing more to undermine the opportunities of local industry than any other. The spiralling management costs of this program were, of course, another problem. Well documented now are the absolutely obscene figures associated with the strategic advice procured by the Department of Finance and Administration. With all of the consultants included, this project has, in fact, cost taxpayers in excess of $40 million—a significant amount—whilst returning almost a nil return in terms of benefits to taxpayers.

Just going back to the minister’s announcement today, it is worth reflecting again on the focus of this independent review, and the fact that the government has identified implementation risks tells us so much. The fact that it has not made out broader terms of reference, however, is still of grave concern. Whilst an assessment of implementation risks is effectively code for ‘We’d better check to see if there is a business case here,’ I reject completely the proposal of the minister that this review be conducted effectively in-house. I would just like to read out a paragraph:

Mr Humphry will report prior to Christmas to a steering committee comprised of the Secretary of the Department of the Prime Minister and Cabinet, Mr Max Moore-Wilton, the Secretary of the Department of Finance and Administration, Dr Peter Boxall, and the Chief Executive of the Office of Asset Sales and IT Outsourcing, Mr Ross Smith. The steering committee will in turn provide advice on any recommendations to the Minister for Finance and Administration.

That sounds to me like it is a bit of a cop-out in terms of coming clean, as far as this IT outsourcing program goes, and Labor has called for this inquiry process to be public. Unless it is public, it will look like an exer-
exercise in damage control and the results of Mr Humphy’s inquiry are unlikely ever to see the light of day. What adds a bit of insult to the whole exercise in this proposal is that the very people whom I have just mentioned are, in fact, as I have said before, the only ones who supported the IT initiative in the very first instance—and that does reek very much of Dracula raiding the blood bank in that we know that there is anticipated support for this program.

What we need is an independent public inquiry. We need to have an inquiry where not only the agencies and departments themselves can express their views without fear or favour; we need an inquiry where local industry, Australian industry, get the chance to say what their thoughts are about how they have been cut out of the process and how the actual structure of the contracts being so large effectively excludes them from tendering on those prime contracts. All that information needs to come out, as does the methodology that the department of finance is persistently claiming is delivering savings. The bottom line with this program is: Labor does not criticise the fact that it has not achieved the savings; Labor’s point is that the savings were never there to be achieved in the first instance, because the underlying drivers that motivate the coalition on this program are purely ideological and have little to do with the efficient running of government.

I would like to quote from a very pertinent letter that was published in the Sydney Morning Herald today, because I think it really sums up some of these crucial issues. It was written by someone whose name and address were supplied but have been withheld, and I can only comment on that by saying that many local business operators, particularly those in small business, learnt a long time ago that if you spoke out and criticised the government’s IT outsourcing program, chances are you would be black listed from ever getting a contract again. The letter states:

Having for some time observed (from a supplier’s perspective) the Federal Government’s IT outsourcing exercise, I read Graeme Philipson’s article with interest. Unfortunately for most of the parties affected, not least the taxpayer, the real situation is probably worse than Mr Philipson’s outline would indicate. There are few in the Canberra IT community (suppliers and users alike) who do not now recognise the outsourcing “initiative” as a blind ideological obsession disguised as economic rationalism.

As widely reported, the fiasco began when someone (allegedly a major IT services company) persuaded the Minister for Finance, John Fahey, that outsourcing IT would save $1 billion. Accordingly, Fahey’s Office of Asset Sales and IT Outsourcing (OASITO) no doubt would have felt safe in directing that it would consider only bids which offered savings to the Government of at least 15 per cent. So, when the IT operations of the Department of Health and the Health Insurance Commission were put up for grabs, the fact that (as I understand) none of the three bidders had met the 15 per cent savings target, carried potential for some embarrassment. Especially as a previous tender process had had to be canned—ostensibly because only one bid had been received—that is in reference to the DETYA bid—but more significantly because that bid also, it was understood, failed to offer any significant saving on the cost of doing the work in-house.

Clearly an unbiased observer might have concluded that public servants had been doing their jobs more efficiently than their Government had been willing to admit, casting doubt on the underlying logic of the outsourcing initiative. Any such unbiased observer would not have been reckoning with OASITO’s ingenuity, however. The story that quickly made the rounds was that their brilliant solution to this impasse was to instruct the bidders to re-price their tenders—this time, omitting the costs of essential “technology refreshment” (ongoing hardware and software upgrades and replacements). In this way, the pricing of all the bids was lowered, entirely artificially, to enable the process to roll on.

Very clearly, the IT outsourcing initiative was corrupted a long time ago in terms of the process of not only claiming the savings but— (Time expired)

Queensland Institute of Medical Research

Senator BRANDIS (Queensland) (10.47 p.m.)—This evening I would like to commend to the Senate the outstanding work in the field of medical science being done at the Queensland Institute of Medical Research. Today I had the pleasure of meeting with the director of the institute, Professor Michael
Good, and the chairman of the council, Sir Bruce Watson. Professor Good and Sir Bruce held meetings earlier in the day with the Prime Minister, Mr Howard, the Minister for Health and Aged Care, the Hon. Michael Wooldridge, and the Minister for Aboriginal and Torres Strait Islander Affairs, Senator John Herron. Of course, as honourable senators will know, in addition to his portfolio responsibilities, Senator Herron is one of the leading figures in the medical community in Queensland and has taken a great interest in the work of the institute.

The QIMR was established in 1945, originally to study tropical fevers prevalent in North Queensland. It quickly became an international leader in tropical disease research, and this is a status which it continues to enjoy. As a result of a commitment to excellence in medical research under the leadership of a series of distinguished directors, the QIMR is now the leading medical research institute in Australia. Among its particular fields of excellence are immunology and infectious diseases. In these fields, among others, its scientists have earned for the institute an international reputation. The institute collaborates widely with other major research centres throughout Australia—including the Walter and Eliza Hall Institute of Medical Research in Melbourne, the Menzies School of Health Research in Darwin and the John Curtin School of Medical Research in Canberra—and the leading research facilities in Europe and North America, including the National Institutes of Health in Maryland and the faculties of medicine at Oxford and Cambridge.

One of the most important features of the QIMR’s work is cancer research—in particular, the application of advanced immunological techniques to the prevention and treatment of cancer. In the 1980s, the institute expanded its research activities, in particular, by embarking on a major new program of cancer research. Since that time, scientists at the institute have discovered many genes of importance to cancer and have discovered many risk factors relevant to cancer.

Of the major research projects which the institute is currently conducting, perhaps the most impressive and potentially important is the development of cell based therapies for cancer. This approach involves growing a patient’s immune cells in the laboratory. At a later stage, after the cells have been grown in vitro and exposed to a patient’s own tumour, they are reinjected into the patient to fight the original tumour. The QIMR’s work in this form of cancer therapy leads the world in immunological oncology research. The preliminary results of the cell based therapy in melanoma patients have been very encouraging. Of 12 patients with advanced melanoma—a condition that does not respond to chemotherapy or more traditional cancer treatments—whose life expectancy would otherwise have been less than six months, three have had an apparently complete remission over two years and another three have experienced significant partial response to treatment. Among the scientists involved in this research, Professor Kay Ellem, Dr Chris Schmidt, and Dr Michael O’Rourke, the latter based at the Mater Hospital in Brisbane, deserve particular mention.

The most exciting aspect of cell based cancer therapies is that this approach would appear to be generic. In other words, there seems to be no clinical reason to believe that it is limited to any particular type of cancer. Although the initial clinical trials have been for melanoma, the institute is currently planning similar clinical trials for other forms of cancer, including leukaemia, prostate cancer and lymphoma. As well, a further more advanced melanoma study is proposed, concentrating on patients at an earlier stage of the disease. Other cancer researchers at the QIMR have identified a number of the genes which regulate the growth of cancer cells. The discovery of these genes opens new approaches to cancer therapy.

As well as this path-breaking work in cell based cancer therapy, the institute is currently undertaking other leading edge immunological research projects, including research into vaccines for malaria, rheumatic fever and glandular fever. The scientists at the forefront of this work include Professor Dennis Moss, Professor Allan Saul and the institute’s director, Professor Good. This work is of particular significance to Austra-
lia’s indigenous peoples, who suffer from the highest incidence in the world of rheumatic fever and rheumatic heart disease.

In May next year the institute will open a new Comprehensive Cancer Research Centre at Herston in Brisbane. This centre, which has been funded partly from a most generous anonymous private donation and partly from public funds, will give the institute facilities commensurate with the international importance of its work. It will also enable many of the new drugs and vaccines developed both at the institute and elsewhere in Australia to be tested on patients for the first time.

The Queensland Institute of Medical Research is a fine example of the way in which Australia’s best scientists have shown a capacity for world leadership in their fields. It calls to mind Australia’s most distinguished record in medical science and the great tradition of distinguished medical scientists, many of them Nobel laureates. We think of people such as Lord Florey, who discovered penicillin, Sir McFarlane Burnett, Sir John Eccles and Professor Peter Doherty. It is people of this stature produced by this country who, throughout the 20th century, been world leaders in medical science. It is encouraging to know that this nation’s excellence in medical science, under the leadership of people such as Professor Good and the scientists at the Queensland Institute of Medical Research, will continue into the future.

Senate adjourned at 10.55 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:

APEC—Australia’s individual action plan 2000.

Tabling

The following documents were tabled by the Clerk:

Australian Communications Authority Act and Radiocommunications Act—Radiocommunications (Interpretation) Amendment Determination 2000 (No. 1).
Radiocommunications Act—
Radiocommunications Licence Conditions (Fixed Licence) Amendment Determination 2000 (No. 2).
Radiocommunications Licence Conditions (Maritime Coast Licence) Amendment Determination 2000 (No. 1).
Radiocommunications Licence Conditions (Outpost Licence) Amendment Determination 2000 (No. 1).
Telecommunications Act—
Telecommunications Numbering Plan Amendment 2000 (No. 5).
Telecommunications Numbering Plan Amendment 2000 (No. 6).
Telecommunications Numbering Plan Amendment 2000 (No. 7).
Telecommunications (Consumer Protection and Service Standards) Act—Telecommunications (Emergency Call Service) Amendment Determination 2000 (No. 1).
QUESTIONS ON NOTICE
The following answers to questions were circulated:

Department of Transport and Regional Services: Missing Laptop Computers
(Question No. 2497)
Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 28 June 2000:

1. Since 1 January 1999, have there been any laptop computers lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) what and how many have been lost; (b) what and how many have been stolen; (c) what is the total value of these items; (d) what is the normal replacement value per item; and (e) have these computers been recovered or replaced.

2. Have the police been requested to investigate any of the incidents; if so (a) how many were subject to police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action been commenced; and (d) in how many cases has action been concluded and with what result.

3. How many of the lost or stolen items had, on their hard disk drives, or on the form of floppy disk, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

4. How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

Departmental Response

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>(a)</td>
<td>Nil</td>
</tr>
<tr>
<td>(b)</td>
<td>3 x Dell Latitude laptop</td>
</tr>
<tr>
<td>(c)</td>
<td>Approximately $13,500 (replacement value)</td>
</tr>
<tr>
<td>(d)</td>
<td>Approximately $4,500 each (items are now leased under the outsourcing arrangement)</td>
</tr>
<tr>
<td>(e)</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td>Yes</td>
</tr>
<tr>
<td>(a)</td>
<td>3</td>
</tr>
<tr>
<td>(b)</td>
<td>Nil</td>
</tr>
<tr>
<td>(c)</td>
<td>Nil</td>
</tr>
<tr>
<td>(d)</td>
<td>Nil</td>
</tr>
<tr>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>Nil</td>
</tr>
</tbody>
</table>

Australian Maritime Safety Authority (AMSA) Response

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>(a)</td>
<td>3</td>
</tr>
<tr>
<td>(b)</td>
<td>11. This includes eight laptop computers stolen from AMSA’s Canberra office on 25 June 2000.</td>
</tr>
<tr>
<td>(c)</td>
<td>Approximately $64,000</td>
</tr>
<tr>
<td>(d)</td>
<td>From $3,300 to $5,500</td>
</tr>
<tr>
<td>(e)</td>
<td>Recovered = 1; Replaced = 10</td>
</tr>
<tr>
<td>2</td>
<td>Yes</td>
</tr>
<tr>
<td>(a)</td>
<td>3</td>
</tr>
<tr>
<td>(b)</td>
<td>Concluded = 2; Still investigating = 1</td>
</tr>
<tr>
<td>(c)</td>
<td>Nil</td>
</tr>
</tbody>
</table>
AMSAs believes that there was no classified or protected information on the laptops.

**Civil Aviation Safety Authority (CASA) Response**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>Nil</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>2 x laptops stolen (1 x Omnibook laptop and 1 x MacIntosh Powerbook)</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>Written down value $4,723.29</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>$6,554</td>
<td></td>
</tr>
<tr>
<td>(e)</td>
<td>None recovered; 1 replaced</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Yes</td>
<td>2</td>
</tr>
<tr>
<td>(a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>(a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Nil</td>
<td></td>
</tr>
</tbody>
</table>

**National Capital Authority (NCA)**

No laptops have been lost or stolen from the possession of NCA officers since January 1999.

**Airservices Australia Response**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td>27</td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td>$128,194</td>
</tr>
<tr>
<td>(d)</td>
<td></td>
<td>Approximately $4,800 per item</td>
</tr>
<tr>
<td>(e)</td>
<td></td>
<td>Recovered = 5; Replaced = 23</td>
</tr>
<tr>
<td>2</td>
<td>Yes</td>
<td>2</td>
</tr>
<tr>
<td>(a)</td>
<td></td>
<td>20</td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td>15</td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>(d)</td>
<td></td>
<td>2 convictions</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>28</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>1 (In-confidence material only)</td>
</tr>
</tbody>
</table>

Airservices Australia also advised that there were two events where more than one laptop was stolen. A group of five were stolen and then another unrelated group of 4 were stolen. Of these nine missing laptops, all have been reported to the Police and are still under investigation. There have been no prosecutions as yet as the offenders have not yet been identified. Two have been recovered by Police. The two convictions noted in the return relate to single item thefts.

**Department of Transport and Regional Services: Missing Computer Equipment**

*Question No. 2516*

Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 28 June 2000:

1) Since 1 January 1999, have there been any desktop computers, or any other item of computer hardware, other than laptop computers, lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) what and how many have been lost; (b) what and how many have been stolen; (c) what is the total value of these items; (d) what is the normal replacement value per item; and (e) have these computers been recovered or replaced.
(2) Have the police been requested to investigate any of the incidents; if so (a) how many were subject to police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action been commenced; and (d) in how many cases has action been concluded and with what result.

(3) How many of the lost or stolen items had, on their hard disk drives, or on the form of floppy disk, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

**Departmental Response**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>Nil</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>2 x Dell Desktop computer</td>
<td>Approximately $6,000, replacement value</td>
</tr>
<tr>
<td>(c)</td>
<td>Approximately $3,000, replacement value</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>Computers were replaced</td>
<td>Yes, as part of reported break ins</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(c)</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>Police unable to identify thief or recover property</td>
<td>Nil</td>
</tr>
<tr>
<td>3</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Nil</td>
<td></td>
</tr>
</tbody>
</table>

**Australian Maritime Safety Authority (AMSA) Response**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>Nil</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>2 x desktop computers and 5 monitors</td>
<td>Total value approximately $8,200</td>
</tr>
<tr>
<td>(c)</td>
<td>Normal replacement value of the computers was $2,500 each and the monitors was about $640 each.</td>
<td>This equipment was replaced</td>
</tr>
<tr>
<td>(e)</td>
<td>This equipment was replaced</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(c)</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>No action taken</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>The stolen PCs contained minimal AMSA documentation</td>
<td>AMSA believes there was no classified or protected information on the computers</td>
</tr>
<tr>
<td>4</td>
<td>AMSA believes there was no classified or protected information on the computers</td>
<td>Nil</td>
</tr>
</tbody>
</table>

**Civil Aviation Safety Authority (CASA) Response**

No desktop computers or any other items of computer hardware other than laptop computers have been lost or stolen from the possession of CASA officers since 1999.

**National Capital Authority (NCA)**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>Nil</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>Thefts have related to components, no whole computers.</td>
<td>2 x monitors</td>
</tr>
</tbody>
</table>
Airservices Australia Response

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>Yes</td>
<td>1</td>
</tr>
<tr>
<td>(b)</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>Approximately $36,597</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>Datamini Tape $50</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Protech PC $2,600</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Protech PC $2,600</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pentium PC CPU $150</td>
<td></td>
</tr>
<tr>
<td></td>
<td>CPU and Monitor $25,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ultra CD Rom $324</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Multisync Data projector $7,400</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Floppy Disks $12,36</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total Replacement Value $38,136.36</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recovered 3; Replaced 6</td>
<td></td>
</tr>
</tbody>
</table>

Department of Transport and Regional Services: Value of Corporate Services  
(Question No. 2631)

Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 9 August 2000:

With reference to the department and each agency in the portfolio, what were the state and city or town location, number of employees and annual salary values of all corporate services as at 30 June 1996 and 30 June 2000, for the following functional areas: (a) human resources; (b) property and office services; (c) financial and accounting services; (d) fleet management; (e) occupational health and safety; (f) workplace and industrial relations; (g) parliamentary communications; (h) payroll; (i)
personnel services; (j) printing and photocopying; (k) auditing; (l) executive services; (m) legal and fraud; and (n) any other corporate services (please specify).

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

**Department of Transport and Regional Services (DoTRS)**

The Department does not record on its human resource management information system the data necessary to provide a response using the functional areas listed in the question. The response provided in the following tables lists the corporate services work groups by branch and/or section for the dates requested.

As at 30 June 2000 the Department had approximately 119 staff performing corporate services functions outside of the Corporate Division. This number would have been greater at 30 June 1996, but accurate figures are not available.

<table>
<thead>
<tr>
<th><em>Corporate services as at 30 June 1996</em> for the then Department of Transport and Regional Development</th>
<th>Number of staff</th>
<th>Location</th>
<th>Annual salary value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Support</td>
<td>5</td>
<td>Canberra</td>
<td>$308,857</td>
</tr>
<tr>
<td>Internal Audit and Security Policy</td>
<td>6</td>
<td>Canberra</td>
<td>$313,781</td>
</tr>
<tr>
<td>Finance and Services</td>
<td>72</td>
<td>Canberra</td>
<td>$2,686,976</td>
</tr>
<tr>
<td>Human Resources and Information Systems: Administration</td>
<td>5</td>
<td>Canberra</td>
<td>$176,047</td>
</tr>
<tr>
<td>Human Resources and Information Systems: Assistant Secretary</td>
<td>1</td>
<td>Canberra</td>
<td>$71,769</td>
</tr>
<tr>
<td>Human Resources and Information Systems: Corporate and Special Projects</td>
<td>5</td>
<td>Canberra</td>
<td>$235,259</td>
</tr>
<tr>
<td>Human Resources and Information Systems: Human Resource Policy and Development</td>
<td>11</td>
<td>Canberra</td>
<td>$511,636</td>
</tr>
<tr>
<td>Human Resources and Information Systems: Information Systems</td>
<td>29</td>
<td>Canberra</td>
<td>$1,449,965</td>
</tr>
<tr>
<td>Human Resources and Information Systems: Personnel Services</td>
<td>22</td>
<td>Canberra</td>
<td>$818,528</td>
</tr>
<tr>
<td>Legal and Coordination, Library</td>
<td>7</td>
<td>Canberra</td>
<td>$281,674</td>
</tr>
<tr>
<td>Legal and Coordination: Public Affairs</td>
<td>7</td>
<td>Canberra</td>
<td>$313,183</td>
</tr>
<tr>
<td>Legal and Coordination: other</td>
<td>30</td>
<td>Canberra</td>
<td>$1,455,516</td>
</tr>
</tbody>
</table>

*Note this table does not include any non-Corporate Division employees.*

<table>
<thead>
<tr>
<th>Corporate services as at 30 June 2000*</th>
<th>Number of staff</th>
<th>Location</th>
<th>Annual salary value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business &amp; Finance Services: Accounting Policies &amp; Practices</td>
<td>13</td>
<td>Canberra</td>
<td>$660,889</td>
</tr>
<tr>
<td>Business &amp; Finance Services: Business Development &amp; Coordination</td>
<td>10</td>
<td>Canberra</td>
<td>$497,865</td>
</tr>
<tr>
<td>Business &amp; Finance Services: Executive Support</td>
<td>2</td>
<td>Canberra</td>
<td>$114,425</td>
</tr>
<tr>
<td>Business Systems Development: Business Systems Development</td>
<td>8</td>
<td>Canberra</td>
<td>$441,946</td>
</tr>
<tr>
<td>Executive: Executive Support</td>
<td>6</td>
<td>Canberra</td>
<td>$406,810</td>
</tr>
<tr>
<td>Information &amp; Services: Administrative Unit</td>
<td>2</td>
<td>Canberra</td>
<td>$71,473</td>
</tr>
</tbody>
</table>

*Note this table does not include any non-Corporate Division employees.*
### Corporate services as at 30 June 2000
for the department of Transport and Regional Services

<table>
<thead>
<tr>
<th>Number of staff</th>
<th>Location</th>
<th>Annual salary value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Information &amp; Services: Contracts &amp; Purchasing Policy</td>
<td>3 Canberra</td>
<td>$141,268</td>
</tr>
<tr>
<td>Information &amp; Services: Executive Support</td>
<td>1 Canberra</td>
<td>$88,977</td>
</tr>
<tr>
<td>Information &amp; Services: IT Management</td>
<td>10 Canberra</td>
<td>$525,949</td>
</tr>
<tr>
<td>Information &amp; Services: Library</td>
<td>3 Canberra</td>
<td>$143,840</td>
</tr>
<tr>
<td>Information &amp; Services: Print Unit</td>
<td>2 Canberra</td>
<td>$68,252</td>
</tr>
<tr>
<td>Information &amp; Services: Property &amp; Security</td>
<td>10 Canberra</td>
<td>$397,474</td>
</tr>
<tr>
<td>Information &amp; Services: Records Management Unit</td>
<td>12 Canberra</td>
<td>$406,479</td>
</tr>
<tr>
<td>Information &amp; Services: Travel &amp; Vehicles</td>
<td>3 Canberra</td>
<td>$111,284</td>
</tr>
<tr>
<td>Internal Audit</td>
<td>1 Canberra</td>
<td>$77,948</td>
</tr>
<tr>
<td>Legal &amp; Coordination: Executive Support</td>
<td>2 Canberra</td>
<td>$117,452</td>
</tr>
<tr>
<td>Legal &amp; Coordination: Legal Services</td>
<td>5 Canberra</td>
<td>$342,145</td>
</tr>
<tr>
<td>Legal &amp; Coordination: Parliamentary Liaison</td>
<td>11 Canberra</td>
<td>$513,796</td>
</tr>
<tr>
<td>Legal &amp; Coordination: Policy Development &amp; Coordination</td>
<td>7 Canberra</td>
<td>$347,808</td>
</tr>
<tr>
<td>Legal &amp; Coordination: ATC &amp; SCOT Secretariat</td>
<td>2 Canberra</td>
<td>$106,598</td>
</tr>
<tr>
<td>People &amp; Organisation: Administration Unit</td>
<td>2 Canberra</td>
<td>$72,612</td>
</tr>
<tr>
<td>People &amp; Organisation: Communication &amp; Public Affairs</td>
<td>7 Canberra</td>
<td>$356,243</td>
</tr>
<tr>
<td>People &amp; Organisation: Corporate Development</td>
<td>9 Canberra</td>
<td>$416,775</td>
</tr>
<tr>
<td>People &amp; Organisation: Employee Services</td>
<td>9 Canberra</td>
<td>$411,370</td>
</tr>
<tr>
<td>People &amp; Organisation: Executive Support</td>
<td>1 Canberra</td>
<td>$88,977</td>
</tr>
<tr>
<td>People &amp; Organisation: People Plus Team</td>
<td>4 Canberra</td>
<td>$198,915</td>
</tr>
<tr>
<td>People &amp; Organisation: Workplace Relations</td>
<td>3 Canberra</td>
<td>$172,659</td>
</tr>
</tbody>
</table>

** Note only approximate figures are available on non-Corporate Division staff. The average annual salary cost for these staff has been based on the mid-point of an APS 5 ($46,633 per annum).**

### Australian Maritime Safety Authority (AMSA)

The Australian Maritime Safety Authority (AMSA) had the following numbers of employees principally engaged in delivering each type of corporate service as at 30 June 1996 and 30 June 2000 located in Canberra, unless otherwise indicated:

#### 30 June 1996

<table>
<thead>
<tr>
<th>Type of Corporate Service</th>
<th>30/6/1996</th>
</tr>
</thead>
<tbody>
<tr>
<td>human resources</td>
<td>3</td>
</tr>
<tr>
<td>property and office services</td>
<td>21*</td>
</tr>
</tbody>
</table>
Tuesday, 7 November 2000

The annual salary values of all corporate services as at 30 June 1996 was $3.994 million.

30 June 2000

The annual salary values of all corporate services as at 30 June 2000 was $4.833 million.

Civil Aviation Safety Authority (CASA)

As at 30 June 2000.
<table>
<thead>
<tr>
<th>Area</th>
<th>Subsection</th>
<th>Reference</th>
<th>Location</th>
<th>Number of Staff</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>WI &amp; IR (f)</td>
<td></td>
<td></td>
<td>Canberra</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Training (n)</td>
<td></td>
<td></td>
<td>Canberra</td>
<td>6</td>
<td>450,441</td>
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<td>Personnel Services (i)</td>
<td></td>
<td></td>
<td>Canberra</td>
<td>9</td>
<td>542,859</td>
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<tr>
<td>Payroll (h)</td>
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<tr>
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<td>Total</td>
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<tr>
<td>Government Industry and International Relations</td>
<td>Corporate Secretariat</td>
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<td>3</td>
<td>79,577</td>
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<tr>
<td></td>
<td>Subtotal</td>
<td></td>
<td></td>
<td>38</td>
<td>1,973,504</td>
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<tr>
<td>Quality and Internal Audit</td>
<td>Parliamentary Liaison</td>
<td>(g)</td>
<td>Canberra</td>
<td>8</td>
<td>510,948</td>
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<tr>
<td></td>
<td>(k)</td>
<td></td>
<td>Melbourne</td>
<td>2</td>
<td>150,926</td>
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<td></td>
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<td>Brisbane</td>
<td>1</td>
<td>76,409</td>
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<tr>
<td>Subtotal Executive Services</td>
<td>(l)</td>
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<td>Canberra</td>
<td>16</td>
<td>973,504</td>
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<tr>
<td>Finance and Accounting</td>
<td>(c)</td>
<td></td>
<td>Canberra</td>
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<td>765,510</td>
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<tr>
<td>Legal and Fraud</td>
<td>Legal Fraud (m)</td>
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<td></td>
<td>104</td>
<td>6,227,958</td>
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</table>

Note: Board Secretariat in Executive Library part Property and Services Corporate Secretariat figure contains one officer on Leave Without Pay.

As at 30 December 1996.
### Area

<table>
<thead>
<tr>
<th>Subsection</th>
<th>Number of Staff</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Services</td>
<td>3</td>
<td>190,664</td>
</tr>
<tr>
<td>Finance and Accounting</td>
<td>7</td>
<td>424,912</td>
</tr>
<tr>
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<td>1,099,119</td>
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<tr>
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<td>2</td>
<td>1,298,231</td>
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<tr>
<td>Brisbane</td>
<td>2</td>
<td>129,823</td>
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<tr>
<td>Canberra</td>
<td>7</td>
<td>424,912</td>
</tr>
<tr>
<td>Canberra</td>
<td>17</td>
<td>812,786</td>
</tr>
<tr>
<td>Executive Services</td>
<td>7</td>
<td>424,912</td>
</tr>
<tr>
<td>Finance and Accounting</td>
<td>17</td>
<td>812,786</td>
</tr>
<tr>
<td>Legal and Fraud</td>
<td>18</td>
<td>1,209,287</td>
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<td>43</td>
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<td>25</td>
<td>1,168,288</td>
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<tr>
<td>Total</td>
<td>124</td>
<td>6,710,122</td>
</tr>
</tbody>
</table>

Note: Board Secretariat included in Government Industry and International Relations Branch.

Library is included as part of Continuing Airworthiness Branch.

### National Capital Authority (NCA)

#### National Capital Authority

<table>
<thead>
<tr>
<th>Section</th>
<th>Number of Staff</th>
<th>Annual Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Services</td>
<td>2</td>
<td>79,309.00</td>
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<tr>
<td>Finance</td>
<td>3</td>
<td>128,692.00</td>
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<tr>
<td>Human Resources</td>
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<td>92,773.00</td>
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<tr>
<td>IT</td>
<td>1</td>
<td>56,164.00</td>
</tr>
<tr>
<td>Property and Services</td>
<td>1</td>
<td>39,877.00</td>
</tr>
<tr>
<td>Registry</td>
<td>1</td>
<td>32,651.00</td>
</tr>
<tr>
<td>Receptions</td>
<td>1</td>
<td>36,609.00</td>
</tr>
<tr>
<td>Parliamentary Communications</td>
<td>1</td>
<td>67,994.00</td>
</tr>
<tr>
<td>Total</td>
<td>12</td>
<td>534,069.00</td>
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</tbody>
</table>

#### Corporate Services at 30.6.1996 (all Canberra based)

<table>
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<tr>
<th>Section</th>
<th>Number of Staff</th>
<th>Annual Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Services</td>
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<td>71,645.00</td>
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<tr>
<td>Finance</td>
<td>5</td>
<td>246,469.00</td>
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<td>252,734.00</td>
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<td>Human Resources</td>
<td>4</td>
<td>165,654.00</td>
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<td>Government Relations</td>
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<td>41,760.00</td>
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<tr>
<td>Total</td>
<td>18</td>
<td>778,262.00</td>
</tr>
</tbody>
</table>

*Business Strategy includes:

Property & Services & Registry
Department of Finance and Administration: Value of Corporate Services
(Question No. 2641)

Senator Faulkner asked the Minister representing the Minister for Finance and Administration, upon notice, on 9 August 2000:

With reference to the department and each agency in the portfolio, what were the state and city or town location, number of employees and annual salary values of all corporate services as at 30 June 1996 and 30 June 2000, for the following functional areas: (a) human resources; (b) property and office services; (c) financial and accounting services; (d) fleet management; (e) occupational health and safety; (f) workplace and industrial relations; (g) parliamentary communications; (h) payroll; (i) personnel services; (j) printing and photocopying; (k) auditing; (l) executive services; (m) legal and fraud; and (n) any other corporate services (please specify).

Senator Ellison—The Minister for Finance and Administration has provided the following answer to the honourable senator’s question:

Department of Finance and Administration (DOFA)

DOFA was not formed 30 June 1996 and is not able to provide this information as it would be a major task to collect and assemble the information requested and the resources required to collect this data would not be appropriate. For 30 June 2000, the following information is provided:

<table>
<thead>
<tr>
<th>30 June 2000</th>
<th>Part</th>
<th>No Staff</th>
<th>Salary $</th>
<th>Location</th>
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</thead>
<tbody>
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<td>HR*</td>
<td>11</td>
<td>614,874</td>
<td>Canberra</td>
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<tr>
<td>Property &amp; Office Serv</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
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<tr>
<td>Fin &amp; Acct</td>
<td>26</td>
<td>1,529,666</td>
<td>Canberra</td>
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<tr>
<td>Fleet Mgt</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
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<td>OH&amp;S*</td>
<td>-</td>
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<td></td>
</tr>
<tr>
<td>IR*</td>
<td>5.5</td>
<td>344,929</td>
<td>Canberra</td>
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</tr>
<tr>
<td>Parl Comms</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Payroll</td>
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<td>-</td>
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<tr>
<td>Personnel</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Printing</td>
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<td>Auditing</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Exec Serv</td>
<td>1.3</td>
<td>106,571</td>
<td>Canberra</td>
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<tr>
<td>Legal/Fraud**</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>45.8</td>
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</tr>
</tbody>
</table>

* Staff and salary figures provided against “HR” also include the OH&S and IR functions

** Fraud services conducted by DOFA staff as indicated above. Legal services provided through a select panel.

Commonwealth Grants Commission (CGC)

<table>
<thead>
<tr>
<th>Part</th>
<th>30 June 1996</th>
<th>30 June 2000</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Fleet Mgt</td>
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<td>OH&amp;S</td>
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<tr>
<td>IR</td>
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<td>-</td>
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<td>Parl Comms</td>
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<td>Payroll</td>
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<td>Auditing</td>
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</tr>
<tr>
<td>Exec Serv</td>
<td>0.63</td>
<td>22,797</td>
</tr>
</tbody>
</table>
### ComSuper

#### Part No Staff Salary Location Part No Staff Salary Location

| Legal/Fraud | 0.05 | 3,755 | Canberra |  |
| other*      | 2.55 | 94,830 | Canberra |  |
| Total       | 7    | 312,393 |  |

* Information management and library services

### Office of Asset Sales and IT Outsourcing

The Office of Asset Sales and IT Outsourcing (OASITO) was not established 30 June 1996. The following information is provided for OASITO as at 30 June 2000:

#### Part No Staff Salary Location Part No Staff Salary Location

| HR          | 0.5  | 31,188 | Canberra |  |
| Property    | 5    | 226,100 | Canberra |  |
| Fin & Acct  | 16   | 754,812 | Canberra |  |
| Fleet Mgt   | -    | -      | -        |  |
| OH&S        | 0.5  | 31,188 | Canberra |  |
| IR          | 0.5  | 31,188 | Canberra |  |
| Parl Comms  | 1    | 51,763 | Canberra |  |
| Payroll     | 3    | 97,085 | Canberra |  |
| Personnel   | 2    | 87,577 | Canberra |  |
| Printing    | -    | -      | -        |  |
| Auditing    | -    | -      | -        |  |
| Exec Serv   | 3    | 132,989 | Canberra |  |
| Legal/Fraud | 3    | 158,380 | Canberra |  |
| other*      | 2.5  | 134,202 | Canberra |  |
| Total       | 10   | 425,571 |  |

* IT contract management

### Australian Electoral Commission (AEC)

#### Part 30 June 1996

<table>
<thead>
<tr>
<th>Part</th>
<th>No Staff</th>
<th>Salary $</th>
<th>Location</th>
<th>No Staff</th>
<th>Salary $</th>
<th>Location</th>
<th>No Staff</th>
<th>Salary $</th>
<th>Location</th>
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<th>Salary $</th>
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<td>115,918</td>
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<td>Hobart Salary $</td>
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<td>29,453</td>
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</table>

<table>
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<tr>
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<th>Canberra Staff</th>
<th>Canberra Salary $</th>
<th>Sydney Staff</th>
<th>Sydney Salary $</th>
<th>Melbourne Staff</th>
<th>Melbourne Salary $</th>
<th>Brisbane Staff</th>
<th>Brisbane Salary $</th>
</tr>
</thead>
<tbody>
<tr>
<td>HR*</td>
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<td>665,038</td>
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<td>4</td>
<td>181,677</td>
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Senator Faulkner asked the Minister for the Environment and Heritage, upon notice, on 9 August 2000:

1. Since 1 July 1999, has the department, or any agency in the portfolio, commissioned or participated in any way in public opinion research in non-metropolitan areas; if so, which agency or which functional area of the department.

2. What was the purpose of this research and what were the objectives as set out for the research company or body when commissioned.

3. Was any of this research designed to test the reaction of rural and regional constituents to Federal Government decisions, policies or potential policies, in any way similar to the research described in the Sunday Telegraph, 23 July 2000, page 81.

4. (a) Which company or other body carried out the research; (b) what were the research methods to be used; and (c) what was the expected timetable for this research.

5. Was any of the work sub-contracted to any other company or body; if so, why, and to which company or body.
(6) What were the results of this research.

(7) Who made the request that this research be undertaken, and who authorised the expenditure.

(8) What was the estimated cost of this research, and what was the total cost.

(9) How will the results of this research be used.

Senator Hill—The answer to the honourable senator’s question is as follows:

In the following response public opinion research has been interpreted as meaning market research conducted by external parties.

DEPARTMENT

Strategic Development Division

(1) In August 1999, the then Corporate Relations and Information Branch of the Department of the Environment and Heritage commissioned market research on the Natural Heritage Trust Public Information Campaign. This quantitative research was conducted nationally and was not specifically focussed on non-metropolitan areas.

(2) The purpose of this research was to evaluate the effectiveness of Natural Heritage Trust television advertising screened during August and September 1999. The research company was commissioned to evaluate how effective the campaign had been and what messages and methods, if any, should be refined for any future communication activities.

(3) No.

(4) (a) Wirthlin Worldwide Australasia Pty Ltd; (b) A telephone survey was carried out of a random sample of 1,000 Australians, aged 18 years and older; (c) The research was conducted from 11 to 13 September 1999.

(5) Yes. The actual telephone survey was sub-contracted to the Sexton Marketing Group which specialises in this type of fieldwork.

(6) The research indicated how effective the television advertising campaign was in achieving its objectives.

(7) The research was arranged by the Corporate Relations and Information Branch of the Department of the Environment and Heritage, as part of its normal methodology with major communication activities. The expenditure was approved by the Minister for the Environment and Heritage.

(8) The estimated and total cost of this research was $36,000.

(9) The research will be used in the development of any future Natural Heritage Trust communication activities, to ensure they are effective, and possibly more generally in other departmental communication activities in relation to its policies and programs.

Environment Quality Division

(1) The Air Quality Section commissioned research into the Breathe the Benefits campaign, Winter 1999.

(2) The purpose of the research was to undertake a post-campaign survey/evaluation in six areas of Australia (Aarmidale, Launceston, south-west WA, Toowoomba area, regional Victoria and South Australia) to determine the overall success/effectiveness of the methods and materials used to deliver the campaign’s message.

(3) No.

(4) (a) CR Attwater & VJ Thorp, in conjunction with Myriad Consultancy; (b) Telephone evaluation; (c) Commissioned in August 1999, report delivered September 1999.

(5) No.

(6) The research indicated that the campaign had a positive effect on attitudes and practices in relation to the use of woodheaters in all areas. The campaign was twice as effective in the three areas where the campaign was considered more relevant due to poor air quality attributed to woodsmoke, ie. Armidale, Launceston and south west WA.
(7) The Air Quality Section requested that the research be undertaken. The relevant Assistant Secretary authorised the expenditure.

(8) The estimated and total cost of this research was $21,250.

(9) To advise on the future delivery of the campaign.

**Environment Quality Division**

(1) The Air Quality Section commissioned research into the Breathe the Benefits national woodsmoke awareness campaign, Winter 2000.

(2) The purpose of the research was to undertake pre-campaign market research (in Goulburn, NSW) to assist in the development of newspaper advertising and refine the previous year’s television advertisement.

(3) No.

(4) (a) Keys Young; (b) focus group; (c) commissioned in March 2000, report delivered April 2000.

(5) No,

(6) TV: that the advertisement communicated practical information in a clear and straightforward manner. Newspaper: Support for two of the four options presented, with preference for an advertisement that directly related to the television advertisement. Other: Preference for the development of a fridge magnet style information card.

(7) The Air Quality Section requested that the research be undertaken. The relevant Assistant Secretary authorised the expenditure.

(8) Estimated cost: $6,450; Total cost: $4,802.

(9) To inform the design of advertising material for the Winter 2000 campaign.

**Bureau of Meteorology**

(1) The Bureau of Meteorology has conducted ongoing public opinion research in non-metropolitan as well as metropolitan areas on a quarterly basis (every three months) since 1997.

(2) The purpose of the research is to obtain information on the performance of the Bureau’s weather services to the public, including the public’s perception of the accuracy, timeliness and ease of understanding of the Bureau’s services. The objective is to provide a benchmark for measuring improvements in the Bureau’s services and obtain feedback on the quality of the services, in terms of efficiency and effectiveness.

(3) No.

(4) (a) A C Nielsen; (b) The survey method was telephone interview. Approximately 560 telephone interviews are conducted each quarter, comprising 80 interviews per state (including the Northern Territory). In each state, 75 metropolitan and five rural interviews are conducted; (c) To obtain seasonal and trend information, interviews are conducted on a quarterly basis each year. The survey has been conducted each year since 1997. Results are published each year.

(5) A C Nielsen has not sub-contracted any of the work to any other company.

(6) The research indicated an overwhelming majority of respondents considered weather forecast and warning services to be essential; that weather information is given in time to make decisions; that weather information is easily understood; and that public weather forecasts and warnings are improving in or maintaining the level of accuracy.

(7) The Bureau’s Assistant Director (Services) requested and authorised the expenditure.

(8) The estimated and total cost of the contract for this research for the 1999-2000 financial year was approximately $49,000.

(9) To monitor the effectiveness of the Bureau’s Public Weather Services.

**Australian Heritage Commission**

(1) The Australian Heritage Commission (AHC) is currently undertaking a joint market research project with the Australian Council of National Trusts (ACNT).
(2) The purpose of the research is to provide quality data that both AHC and ACNT can use to:
   (i) Assist the development of effective communication and marketing strategies (AHC/ACNT);
   (ii) Provide a benchmark against which achievement can be measured objectively (AHC/ACNT);
   and
   (iii) Provide data for advocacy (ACNT).

(3) No.

(4) (a) Roy Morgan; (b) The research methods being undertaken are analysing pre-existing data, before conducting 200 interviews and four focus groups to obtain qualitative information with the aim of developing questions to be included in a weekly questionnaire; (c) The research has commenced and is expected to be completed before July 2001.

(5) No.

(6) Results are not available yet.

(7) The ACNT and the AHC undertook this joint research. This is in line with an existing Memorandum of Understanding between the two organisations that provides for joint projects and research. The AHC authorised this expenditure.

(8) The Australian Heritage Commission’s contribution to the market research project is $30,000. As the project is still current final costs are unavailable.

(9) See (2) above.

**Australian Greenhouse Office**

(1) The Australian Greenhouse Office commissioned three types of research.

(2) (i) Market research was commissioned to inform a revision of the publication *Global Warming Cool It!*, A home guide to reducing energy costs and greenhouse gases.

   (ii) Community awareness research was commissioned to inform the development of a national communication strategy.

   (iii) Research was commissioned to test agency creative concepts in the development of the National Public Information Campaign on Greenhouse.

(3) No.

(4) (a) (i) *Global Warming Cool It!* - Mark Dignam and Associates

   (ii) NGS community awareness research - A consortium led by Quay Connection

   (iii) National Public Information Campaign on Greenhouse - Wirthlin Worldwide Pty Ltd

(5) No.

(6) (i) *Global Warming Cool It!* research informed the revision of the publication.

   (ii) NGS community awareness research has been used in the development of a communication strategy.

   (iii) National Public Information Campaign on Greenhouse research will guide the production of television and print advertising.
(7)(i) Global Warming Cool It! - The Australian Greenhouse Office requested the research and authorised the expenditure.

(ii) NGS Community Awareness Research - The request for the research came as a result of NGS requirements. The expenditure for this research was authorised by the Australian Greenhouse Office on behalf of the States and Territories.

(iii) National Public Information Campaign - The Ministerial Committee on Government Communication requires concept testing of proposed campaign advertising. The expenditure was authorised by the Australian Greenhouse.

(8)(i) Global Warming Cool It! – estimated and total cost: $29,500

(ii) NGS Community Awareness Research – estimated and total cost: $59,300

(iii) National Public Information Campaign on Greenhouse – estimated and total cost: $79,500 (plus GST)

(9)(i) The results of Global Warming Cool it! research have been used to inform the revision of the publication and corresponding web pages.

(ii) The results of the NGS Community Awareness Research have been used to inform the development of a communication strategy.

(iii) The results of research for the National Public Information Campaign on Greenhouse are being used to inform the creative development of the advertising.

Department of Transport and Regional Services: Market Testing of Corporate Services

(Question No. 2669)

Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 9 August 2000:

(1) Has the department and/or any agency in the portfolio, set a time frame to market test any of its corporate services; if so, which agency, which functions, and what is the timeframe.

(2) In relation to each agency which has, or will, move to market test corporate services, what arrangements have been made to consult with affected employees and their representatives; if such arrangements have not been made, when will these consultations be undertaken.

Senator Ian Macdonald — The Minister for Transport and Regional Services provided the following answer to the honourable senator’s question:

Department of Transport and Regional Services (DoTRS)

(1) and (2) The Department of Transport and Regional Services (DoTRS) will be undertaking market testing of corporate services as part of its Performance Improvement in Corporate Services (PICS) process. This includes contract management of already outsourced services (such as IT Contract Management and Property Management) but not the outsourced services themselves (including services such as IT, property maintenance, telephone switchboard).

Following analysis and detailed planning, DoTRS expects to begin market testing early in 2001.

A key feature of the DoTRS approach to market testing is to seek quotes on the basis of specifications that reflect Service Level Agreements (SLAs). Internal SLAs specify services and service levels provided by corporate services staff to client Divisions. The quality of corporate services provided within the Department will therefore need to be taken into account by bidders during the market testing process. To ensure that staff are involved as fully as possible in defining services and service level agreements, the Department has engaged a consultant to assist corporate services staff to draft SLAs.

DoTRS is fully committed to a detailed consultative process with all staff engaged in the provision of corporate services. The Department’s strategy is therefore to employ a wide range of communication mediums including:
• the Departmental Consultative Committee (DCC), which includes representatives from all Divisions and the staff representatives bound by the DoTRS Certified Agreement. Both the Output Pricing Review (OPR) and the PICS process are standing items on the DCC agenda;
• a regular weekly discussion open to all staff, with all questions encouraged;
• a special newsletter;
• an Intranet site; and
• articles in Transard, the weekly departmental bulletin.

All of these approaches have already been employed.

Australian Maritime Safety Authority (AMSA)

1) The Australian Maritime Safety Authority (AMSA) has set a timeframe for the market testing of the provision of Information Technology services and plans to have the documentation finalised by December 2000 to allow market testing to proceed.

2) Since AMSA announced the market testing of these services in December 1999, ongoing consultation has been maintained with staff through formalised corporate channels including:

(a) AMSA Consultative Forum, an established representative group comprising AMSA management, elected staff representatives and unions;
(b) AMSA News, the quarterly AMSA staff newsletter;
(c) Personnel News, a fortnightly personnel bulletin;
(d) AMSA’s Change Management Focus Group, an established network of nominated staff members responsible for information dissemination; and
(e) Regular workplace meetings and presentations at AMSA locations around Australia.

Civil Aviation Safety Authority (CASA)

1 and 2) The Civil Aviation Safety Authority (CASA) is currently reviewing the delivery of its Internal Audit Services. A report on delivery options will be considered by CASA management within the next three months. Consultation with staff and unions will be put in place during this period.

CASA outsourced its Information Technology infrastructure on 26 June 2000 as part of the Group 8 panel. This outsourcing was preceded by extensive evaluation work and discussions with CASA staff and unions.

CASA has no specific plans to market test other corporate services at this stage. This matter will be further reviewed after the completion of the organisational restructure scheduled for 31 December 2000.

National Capital Authority (NCA)

1) A significant proportion of the National Capital Authority’s Corporate Services functions (including Information Technology, payroll functions, certain financial services and Internal Audit) have already been outsourced. It is intended the Authority benchmark other services (which include accounts payable, human resources management and property services) within 9 months prior to undertaking market testing.

2) Extensive consultation will be undertaken with staff and their representatives during the process.

Aboriginal and Torres Strait Islander Commission: Market Testing of Corporate Services

(Question No. 2686)

Senator Faulkner asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 9 August 2000:

1) Has the department and/or agency in the portfolio, set a timeframe to market test any of its corporate services; if so, which agency, which functions, and what is the timeframe.

2) In relation to each agency which has, or will, move to market test corporate services, what arrangements have been made to consult with effected employees and their representatives; if such arrangements have not been made, when will these consultations be undertaken.
Senator Herron—The Aboriginal and Torres Strait Islander Commission has provided the following information in response to the honourable senator’s question:

(1) Market Testing of Corporate Services functions is mandatory for agencies governed by the Financial Management and Accountability Act 1997 (FMA Act). Although ATSIC’s financial parameters are set by the Commonwealth Authorities and Companies Act 1997 (CAC Act), the question of market testing Corporate Services functions in ATSIC is being investigated in a co-operative manner with the Governments Office of Asset Sales and IT Outsourcing (OASITO). A timeframe and the identification of functions will become clearer once discussions with OASITO and other CAC Act agencies are further developed.

(2) ATSIC will consult with staff and their representatives on an ongoing basis to ensure that the process of market testing is understood by all concerned.

Department of Transport and Regional Services: Market Testing of Functions
(Question No. 2688)

Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 9 August 2000:

(1) Has the department and/or any agency in the portfolio, set a time frame to market test any of its functions other than corporate services; if so, which agency, which functions, what is the state and city or town location of staff currently undertaking that function, and what is the timeframe.

(2) In relation to each agency which has, or will, move to market test these functions, what arrangements have been made to consult with affected employees and their representatives; if such arrangements have not been made, when will these consultations be undertaken.

Senator Ian Macdonald—The Minister for Transport and Regional Services provided the following answer to the honourable senator’s question:

Department of Transport and Regional Services (DoTRS)

(1) and (2) The Department of Transport and Regional Services (DoTRS) has not set a timeframe for the market testing of functions other than corporate services. As a pricing agreement is to be in place for FY2002-03 and outyears, market testing will be considered during 2001.

Market testing would be considered for specific activities in order to identify market prices for agency outputs and activities. However, as the review of the Department’s output pricing has just commenced, no functions or activities have yet been identified.

DoTRS is committed to staff consultation and active staff participation throughout the process. At this stage in the process, no decisions have been taken and no staff affected. Staff will be actively involved in the conduct of the review, in mapping activities and undertaking benchmarking.

Both the Output Pricing Review (OPR) and the Performance Improvement in Corporate Services (PICS) process are standing items at the Departmental Consultative Committee (DCC) meetings, which includes representatives from all Divisions and the staff representatives bound by the DoTRS Certified Agreement.

A range of communication mediums will also be employed throughout the review, including the use of a dedicated Intranet site and newsletter. Staff meetings will also be held throughout the review.

Australian Maritime Safety Authority (AMSA)

(1) The Australian Maritime Safety Authority (AMSA) currently is undertaking market testing of its provision of maintenance services for marine navigational aids and search and rescue equipment, construction services for new navigational aids and support services for search and rescue equipment.

The States and cities in which relevant staff are located include:

(a) Queensland: Brisbane and Cairns
(b) Victoria: Melbourne and Darriman
(c) Tasmania: Hobart
AMSA aims to conclude the market testing process for these services by January 2001.

(2) Since AMSA announced the market testing of these services in December 1999, ongoing consultation has been maintained with staff through formalised corporate channels including:

(a) AMSA Consultative Forum, an established representative group comprising AMSA management, elected staff representatives and unions;
(b) AMSA News, the quarterly AMSA staff newsletter;
(c) Personnel News, a fortnightly personnel bulletin;
(d) AMSA’s Change Management Focus Group, an established network of nominated staff members responsible for information dissemination; and
(e) Regular workplace meetings and presentations at AMSA locations around Australia.

Civil Aviation Safety Authority (CASA)
(1) and (2) The Civil Aviation Safety Authority (CASA) has not set a time frame to market test any of its functions other than Corporate Services.

National Capital Authority (NCA)
The National Capital Authority currently contracts out the delivery of its land management, restoration and replacement programmes and new works. No other services have been identified at this stage for market testing.

These services have always been outsourced. No employees were affected.

Department of the Environment and Heritage: Market Testing of Functions (Question No. 2691)

Senator Faulkner asked the Minister for the Environment and Heritage, upon notice, on 9 August 2000:

(1) Has the department and/or any agency in the portfolio, set a timeframe to market test any of its functions other than corporate services; if so, which agency, which functions, what is the state and city or town location of staff currently undertaking that function, and what is the timeframe.

(2) In relation to each agency which has, or will move to market test these functions, what arrangements have been made to consult with effected employees and their representatives; if such arrangements have not been made, when will these consultations be undertaken.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) The portfolio incorporates formal and informal market testing into its on-going operations, with a significant proportion of its activities conducted under contract (some $13.6m within the Department of the Environment & Heritage in 1999-00). The portfolio considers service delivery options for each activity on a continuing basis and as opportunities occur. During the next 12 months the main market testing focus will be on corporate services and completion of information technology in the Bureau of Meteorology and the Australian Antarctic Division, however individual programs, such as the Bird and Bat Banding Scheme, will also be considered where there is an opportunity for improved service delivery. It is anticipated that the majority of the latter items would be located in Canberra, although naturally this will depend on the nature of the service.

The Bureau of Meteorology and the Australian Antarctic Division (AAD) are participating as part of Group 9 in the Whole of Government Information Technology (IT) Outsourcing Initiative. The IT Outsourcing Initiative is managed by the Office of Assets Sales and Information Technology (OASITO) and is aimed at outsourcing IT infrastructure. The main locations of these functions in the Bureau is at the Head Office in Melbourne and at Regional Offices in each capital city and Darwin. The main AAD location is in Hobart.
The current OASITO timetable estimates that the Request for Tender (RFT) for Group 9 will be released in late 2000 with a transition to the successful bidder in mid 2001.

(2) With regard to IT Outsourcing in the Bureau, general consultation with staff commenced in late 1999 and an internal web site was set up in early 2000 to keep staff informed on the status of the project. A scoping study was commenced by OASITO in July 2000 to determine which systems in the Bureau would be affected by the initiative. The scoping study will be completed in the next eight weeks at which time consultation will commence with those staff directly affected by the IT Outsourcing Initiative.

With regard to the Observations and Engineering Programs in the Bureau, in view of the preliminary nature of considerations so far, no specific arrangements are in place to consult with affected staff and their representatives, although general information briefings have been held.

General consultation with all AAD staff commenced in late 1999. Consultation is maintained through general reports to staff and is also a standing agenda item on the monthly middle managers group meetings and fortnightly to the IT managers group.

Aboriginal and Torres Strait Islander Commission: Market Testing of Functions

(2) Senator Faulkner asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 9 August 2000:

(1) Has the department, and/or any agency in the portfolio, set a timeframe to market test any of its functions other than corporate services; if so, which agency, which functions, what is the state and city or town location of staff currently undertaking that function, and what is the timeframe.

(2) In relation to each agency which has or will move to market test these functions, what arrangements have been made to consult with effected employees and their representatives; if such arrangements have not been made, when will these consultations be undertaken.

Senator Herron—The answer to the honourable senator’s question is as follows:

The Aboriginal and Torres Strait Islander Commission has provided the following information:

In 1999 ATSIC, as a member of Group 8, undertook a market testing exercise in relation to it’s IT infrastructure. As a consequence of this, the IT infrastructure was outsourced to Ipex ITG in June 2000. There are no further plans within ATSIC to market test any functions other than corporate services.

Regional Assistance Program: Funding Applications

(2) Senator O’Brien asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 14 August 2000:

(1) How many applications for funding in the 1999-2000 financial year through the Regional Assistance Program sought retrospective funding or were provided with retrospective funding.

(2) In each case: (a) what was the nature of the proposal; (b) who was the proponent of the proposal; (c) when was the application lodged; (d) when was funding for the proposal approved; and (e) who approved the retrospective payment for the project.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

(1) The Regional Assistance Programme (RAP) guidelines do not allow for project funding to be paid retrospectively. My department advises that on this basis, no applications for retrospective funding have been approved.

(2) Not applicable.
Regional Assistance Program: Funding Applications
(Question No. 2707)

Senator O’Brien asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 14 August 2000:

1. (a) How many applications for funding in the 1999-2000 financial year through the Regional Assistance Program that missed the quarterly cut off dates were not considered for approval until the next quarter; and (b) how many were considered in the quarter in which the late application was lodged.

2. Where an application was considered despite missing a quarterly cut off date: (a) what was the date the application was lodged; (b) what was the nature of each application; (c) when was the application considered; and (d) was the application successful.

3. In each instance who made the decision to progress the above applications even though the guidelines were not followed.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

1. (a) My department advises me, that to the best of its knowledge, no proposals ready for consideration have missed the cut off date; however, the guidelines allow for exceptions to the quarterly approval process in special circumstances, eg. proposals put forward in response to a natural disaster, local economic crisis or to accord with complementary funding sources if this is time critical.

(b) Not applicable.

(2) Not applicable.

(3) Not applicable.

Regional Assistance Program: Funding Applications
(Question No. 2708)

Senator O’Brien asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 14 August 2000:

1. How many applications for funding in the 1999-2000 financial year through the Regional Assistance Program (RAP) did not follow the application process provided in the RAP guidelines.

2. When was each application, not meeting the RAP guidelines, lodged and which applications were approved by the department’s state office.

3. In each instance who made the decision to progress the above applications even though the guidelines were not followed.

4. In each case: (a) what aspect of the guidelines was not addressed; (b) what was the reason the guidelines were not followed in full; (c) what was the outcome of each application; and (d) on what date was each of the above proposals rejected or approved.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

1. My department advises that, to the best of its knowledge, none.

(b) Not applicable.

2. Not applicable.

(3) Not applicable.

(4) Not applicable.

Regional Assistance Program: Funding Applications
(Question No. 2709)

Senator O’Brien asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 14 August 2000:

1. How many proponents of projects approved for funding in the 1999-2000 financial year through the Regional Assistance Program were not-for-profit organisations.
(2) Where the successful applicant was a normal commercial enterprise seeking to generate a financial return: (a) what was the name of each applicant; (b) what was the nature of each project; (c) how much funding through the program was sought; (d) when was each application lodged; and (e) when was the application approved.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

(1) My department advises that of the 439 projects approved during 1999–00, all proponents were not-for-profit organisations.

(2) Not applicable.

Area Consultative Committees: Plans
(Question No. 2711)

Senator O’Brien asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 14 August 2000:

(1) Since 30 September 1998, have all Area Consultative Committees (ACCs) lodged a Strategic Regional Plan.
(2) Have all ACCs also lodged an Annual Business Plan for the 2000–01 financial year.
(3) When was each Strategic Regional Plan and Annual Business Plan completed by each ACC.
(4) Was a draft of each Strategic Regional Plan and Annual Business Plan submitted to the appropriate state office of the department for its consideration prior to its finalisation; if so, were all the above plans considered by the department to be satisfactory.
(5) If some ACCs have not yet completed a Strategic Regional Plan or an Annual Business Plan, which ACCs have failed to complete these plans.
(6) Which ACCs were provided with funding prior to the lodgement and approval of a Strategic Regional Plan and an Annual Business Plan.
(7) In each case: (a) how much funding was provided; (b) when was the funding provided; (c) who approved the funding; and (d) how long after funding was allocated did each ACC complete a Strategic Regional Plan and an Annual Business Plan.
(8) (a) How many proposals for assistance through the Regional Assistance Program were lodged by ACCs that had not lodged a Strategic Regional Plan or an Annual Business Plan; (b) how many of these proposals were approved by a state office of the department; and (c) how many proposals were approved by the national office.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

(1) At the time of the preparation of this response, all Area Consultative Committees (ACCs) which were established prior to January 2000, have lodged Strategic Regional Plans (SRPs) for the current three-year period ending June 2001. Newly established ACCs (Pilbara, Kimberley, Peel and Perth Metropolitan ACCs) are currently in the process of establishing and developing SRPs.
(2) All ACCs established prior to January 2000 have lodged their Annual Business Plans for the financial year 2000–01.
(3) The department does not record information on the date of completion of SRPs. Refer to Part (1) above.
(4) As advised in my answer to the honourable senator’s question of 30 August 1999, No 1372, the department’s State offices were consulted in the development of the SRPs and all SRPs lodged have been accepted as satisfactory.
(5) As indicated in my response to part (1) above, four ACCs established since January 2000 (Peel, Perth Metropolitan, Kimberley and Pilbara) have not yet completed their plans.
None, with the exception of the four new ACCs referred to above which are each being supported under the previously approved SRPs of their predecessor ACCs, pending finalisation of their new plans.

Not applicable.

Not applicable.

Regional Assistance Program: Facilitators

(Question No. 2712)

Senator O’Brien asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 14 August 2000:

(1) How many facilitators were appointed through the Regional Assistance Program in the 1999-2000 financial year.
(2) What was the appointment date for each of the above facilitators.
(3) What selection process was followed in the appointment of each of the above facilitators and who approved each appointment.
(4) In what federal electorate was each facilitator located, what was the cost of each facilitator and what was the term of each appointment.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

(1) No facilitators were appointed under the programme in 1999–2000.
(2) Not applicable.
(3) Not applicable.
(4) Not applicable.

Regional Assistance Program: Funding Applications

(Question No. 2714)

Senator O’Brien asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 15 August 2000:

(1) How many applications for funding through the Regional Assistance Program (RAP) were considered each month in the 1999-2000 financial year.
(2) How many of the above applications were rejected at a state level.
(3) How many of the above applications were rejected at a national level.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

(1) As the honourable senator has been advised previously, in 1999–2000 RAP projects were considered on a quarterly basis in August, November, February and May. My department advises me that there were 100 RAP proposals considered in the August quarter, 123 in the November quarter, 188 in the February quarter and 184 in the May quarter; a total of 595 projects.
(2) Nil. As the honourable senator has been previously advised, the delegate is located in the National Office of my department.
(3) Of the 595 projects considered, 156 were not approved by the delegate.

Nuclear Waste Repository

(Question No. 2726)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 14 August 2000:

(1)(a) Will the proposed national nuclear waste repository in South Australia be subject to a federal environmental impact assessment; if so, under what legislation; and
(b) Is the project a matter of national environmental significance under the Environment Protection and Biodiversity Conservation Act 1999 (the Act).

(2) Will a private corporation be appointed to manage the project and will the project manager in turn engage a third party to construct and operate the nuclear waste repository.

(3) Is it a fact that the tender documentation enables the contract to construct and operate the repository to be finalised before federal environmental assessment and licensing processes are completed.

(4) Which of the various possible combinations of the Federal Government, project manager and constructor/operator is the proponent for the project.

(5) Will the Minister make the final decision on whether or not the project proceeds under the Act; if not, who then is responsible.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1)(a) The Government has made it clear on several occasions that a full Environmental Impact Assessment will be required to examine in a public and transparent manner the potential environmental impacts of the proposal to construct and operate the national nuclear waste repository. The proposal has not yet been formally referred to me or my Department, although a comprehensive scientific assessment and public consultation process has been undertaken over several years to focus down to the most suitable areas and select a number of potential sites. The preferred site and at least two alternatives will be subject to environmental impact assessment in due course.

(b) Yes, the proposal to construct and operate a national nuclear waste repository is a ‘nuclear action’ and a matter of national environmental significance within the meaning of the Environment Protection and Biodiversity Conservation Act and therefore requires approval to proceed.

(2) The Department of Industry, Science and Resources has called for tenders for a project manager to assist the Department with the implementation of the national repository project. Tenders will be called by the Department of Industry, Science and Resources for environmental assessment, and for design, construction and operation of the repository.

(3) No. The Repository will not be constructed or commence operations unless environmental assessment and licensing processes have been successfully concluded.

(4) The Department of Industry, Science and Resources is the proponent for the project.

(5) The project requires approval under the EPBC Act from the Commonwealth Minister for the Environment and Heritage or, if any declaration is in farce under section 33 of the Act, from the Commonwealth body specified in that declaration. The process for consideration of the project by the Commonwealth government is not restricted to the EPBC Act process.

Department of Education, Training and Youth Affairs: Grants to Employer Organisations

(Question No. 2789)

Senator O’Brien asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 24 August 2000:

(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1996-97 financial year.

(2) In each case:

(a) what was the purpose of the grant or other payment;
(b) what was the actual value of the grant or other payment; and
(c) was the grant or other payment made as a result of an application from the organisation.

(3) If the grant or other payment was made in response to an application from an organisation, in which case:

(a) how was that application assessed; and
(b) who approved the application.

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

(1) The Department of Education, Training and Youth Affairs was not in existence at this time, thus a response from this department is not possible for the 1996-97 financial year.

(2) No data available as Department of Education, Training and Youth Affairs did not exist.

(3) Data in regard to these questions for the 1996-97 financial year are not readily available due to the transfer of responsibility for employment matters to the Department of Employment, Workplace Relations and Small Business in October 1998 and the introduction of a new financial management and accounting system in July 1997.

Data for the period since October 1998 has been provided in response to Question No 2824 and No 2846 for the portfolio.

Department of Education, Training and Youth Affairs: Grants to Employer Organisations

(Question No. 2808)

Senator O’Brien asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 24 August 2000:

(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1997-98 financial year.

(2) In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.

(3) If the grant or other payment was made in response to an application from an organisation, in which case: (a) how was that application assessed; and (b) who approved the application.

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

(1) The Department of Education, Training and Youth Affairs was not in existence at this time, thus a response from this department is not possible for the 1997-98 financial year.

(2) No data available as Department of Education, Training and Youth Affairs did not exist.

(3) Data in regard to these questions for the 1997-98 financial year are not readily available due to the transfer of responsibility for employment matters to the Department of Employment, Workplace Relations and Small Business in October 1998.

Data for the period since October 1998 has been provided in response to Question No 2824 and No 2846 for the portfolio.

Aboriginal and Torres Strait Islander Commission: Grants to Employer Organisations

(Question No. 2853)

Senator O’Brien asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 24 August 2000:

(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1999-2000 financial year.

(2) In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.

(3) If the grant or other payment was made in response to an application from the organisation, in each case: (a) how was that application assessed; and (b) who approved the application.

Senator Herron—The following information is provided in response to the honourable senator’s question:
Tuesday, 7 November 2000

A full search of ATSC’s financial systems for payments made to employer organisations in the 1999-00 financial year, has disclosed that ATSC made no payment to any organisation in question.

West 2000 Plus Program

(Question No. 2894)

Senator Bartlett asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 5 September 2000:

(1) Do any of the funds provided through the WEST 2000 Plus Program impose a legal obligation on funding recipients to improve environmental outcomes.

(2) What are the environmental indicators that will be used to measure the success of the program in terms of public investment in improved natural resource management.

(3) How is it proposed to ensure WEST 2000 Plus utilises existing scientific knowledge to assistance landholders to manage land for dual goals of production and conservation.

(4) Considering the impact of the pastoral industry on public interest environmental values in the Western Division and the potential scope for addressing such impacts through WEST 2000 Plus, what has been done or will be done to ensure broader interests are incorporated in the management of the program, for example, independent environmental and Aboriginal groups.

(5) Given that only 24 per cent of the population of the Western Division is engaged in the pastoral industry, why are the benefits of the program deliberately limited to those engaged in the pastoral industry.

(6) If the program is offering grants to enable landholders to increase the number of watering points on their properties for drought security, what commitment is the program making to ensure that this does not jeopardise biodiversity conservation.

(7) Has funding been set aside to designate areas where watering points can be removed to mitigate grazing pressure on specific vegetation communities that are currently threatened by excessive grazing, which removes natural understorey and eliminates the opportunities for regeneration.

(8) How will the outcomes of the study commissioned by WEST 2000 into the biodiversity values of woody weeds and the new Wood Weeds Code of Practice, under the New South Wales Native Vegetation Conservation Act 1997, be incorporated into WEST 2000 Plus.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Arrangements for the WEST 2000 Plus program have not yet been finalised. The WEST 2000 Plus program has dual economic and natural resource objectives and applicants for assistance will be assessed against eligibility criteria to ensure they contribute to the program objectives. It is anticipated that funding recipients will be required to sign legally binding agreements which may, depending on the project, include natural resource outcomes.

(2) The WEST 2000 Plus program has natural resource objectives and while no performance indicators have yet been agreed, the Commonwealth-State funding agreement will require that performance indicators be developed to measure the success of the program against all program objectives.

(3) In managing the previous WEST 2000 Rural Partnership Program (RPP), the WEST 2000 Management Board (the Board) obtained advice from people with specialist skills and knowledge including counsellors, conservationists and scientists. It is expected that this will continue with representation from scientific and environmental organisations on specialist sub-committees advising the Board on program implementation. Program communication funds will also be used to inform landholders of best practice land management.

(4) The Minister has written to his NSW counterpart seeking a wide range of interests and expertise, in particular natural resource management and environmental, to be represented on the new Management Board. NSW is now proceeding to establish a Management Board with an appropriate mix of background and expertise in the Western Division.
I understand that the WEST 2000 Management Board has held discussions with independent environmental and aboriginal groups on how best to ensure their views are heard and can be addressed. The sub-committee structure within the Board is planned to continue and should provide a range of skills and expertise in managing the WEST 2000 Plus program.

(5) The objective of the WEST 2000 Plus program is to contribute to a competitive, viable and self sustaining Western Division through enhancing the economic performance of landholders and improving the management of the natural resource base. The program is therefore available to landholders who earn a majority of their income from non-irrigated agriculture in the Western Division. In improving the viability of landholders, this program will generate benefits for businesses which rely on landholders for their well-being.

(6) The WEST 2000 Plus program will continue to provide assistance to landholders to undertake activities which facilitate sustainable grazing management and improve drought security. Eligibility criteria for receiving funding under WEST 2000 Plus will ensure that all projects are consistent with national and State natural resource and environmental objectives.

(7) No. However, funding for the removal of watering points is presently available through other mechanisms including the Native Vegetation Management Fund under the NSW Native Vegetation Conservation Act 1997, the Bushcare Program and Catchment Management Board discretionary funding. WEST 2000 Plus will work with these programs to ensure a coordinated and complementary program which achieves both positive economic and environmental outcomes.

(8) The study commissioned by WEST 2000 into the biodiversity values of woody weeds is yet to be completed. Once the study has been finalised its findings will be considered and, where appropriate, incorporated into the relevant WEST 2000 Plus projects.

I have been advised that the proposed Woody Weeds Code of Practice is currently being reviewed and may become part of the New South Wales Native Vegetation Conservation Act 1997. At present the Draft Code has not been adopted. I am also advised that the WEST 2000 Plus Program will require any project which involves the control of woody weeds to be consistent with relevant NSW legislation.